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THE CAMP DAVID ACCORDS

A CHALLENGE TO INTERNATIONAL LAW

International Association of Democratic Lawyers
Union of Palestinian Lawyers

le sycomore

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International Association of Democratic Lawyers
Union of Palestinian Lawyers

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PREFACE

The International Association of Democratic Lawyers, as its name implies, is an association of *lawyers*, working for a better understanding of the law, which entails the analysis of the rules of positive law.

But, being democrats, these lawyers know that the law is never neutral, but can, according to the circumstances, be an instrument of freedom or oppression of individual people or groups.

Thus the association's aim is to develop and broadcast analyses concerning present day situations and leading to the defence of the democratic rights and liberties throughout the world.

Consequently it is clear that the I.A.D.L. must devote itself to taking an initiative as regards the new juridical situation created in the Near East by the signing firstly, of the Camp David accords on September 17th 1978 between Israel, Egypt and the United States and secondly of the Israeli-Egyptian treaty of March 26th 1979 signed in Washington with the American government's guarantee.

In February 1979, a first report on the Camp David accords was prepared at the request of the I.A.D.L. by Mrs. Monique Chemillier-Gendreau and by Mr. Jean-Pierre Colin, professors of international law at Reims University. Then it was decided that the question needed elaborating and a symposium was organized in Paris on the 29th and 30th September 1979. For two days, seventy personalities representing on the highest level, the juridical professions of twenty seven countries indulged in a work of critical reflection and elaborate exchanges which constitutes the basis of this publication.

JOE NORDMANN
President of the International
Association of Democratic Lawyers

Message sent by Yasser ARAFAT, President of the P.L.O. executive committee to the participants of the I.A.D.L. International Symposium.

In the name of the P.L.O. I send my best wishes and greetings to all the participants of the International Symposium organized by the I.A.D.L. on the theme of the American-Israeli-Egyptian accords.

Your symposium is being held during a particularly critical period of the history of our people. On the one hand, the Zionist occupation forces go on with their annihilation war against the Lebanese and Palestinian civilians in South Lebanon, using arms prohibited by the humanitarian international law, but supplied to Israel by the United States of America. Dozens of dead or wounded civilians fall daily for more than ten months, victims of Israeli bombs against South Lebanon, on the other hand, and parallel with these criminal agressions, the Israeli Zionist occupation forces go on without sanction, with their policy of annexation of Arab occupied territories, and of repression against the population of these territories.

These are the fall-outs of the so-called "Peace Agreements", concluded in Camp David between the United States, Egypt and Israel. These agreements, in fact, are nothing but a declaration of war against the Palestinian people and its right to self-determination. Moreover, they constitute a real menace for world-peace and security.

Consequently, these agreements must be universally denounced, not only because they are contrary to the rules of international law, to the United Nations Charter and to the resolutions of the United Nations General Assembly, which expresses the wishes of the International community, but also because they create an historical precedent, dangerous for humanity in general.

All the peoples who are still living under the yoke of racism, colonial domination and foreign occupation, and who are leading, as we do, a legitimate struggle for their right to self-determination, are threatened by the consequences of these agreements.

Their fundamental right to self-determination is being denied them, for the benefit of the imperialist enemy forces determined to impose their hegemony on the struggling people.

While wishing you full success in your work, which is so useful for the future of peace in the world, I insist on reaffirming the determination of the Palestinian people to pursue its struggle in order to foil all the plots directed against its territorial integrity, and its inalienable rights to freedom and independence.

In this respect, I am sure that our people can rely upon you, as they can rely on all the justice and peace-loving people throughout the world.

Introductive Report

The Framework Agreements concluded at Camp David on September 17th 1978 and the Israeli-Egyptian Treaty of March 26th 1979 viewed by the international law

MONIQUE CHEMILLIER-GENDREAU

JEAN-PIERRE COLIN

PROFESSORS AT THE UNIVERSITY OF REIMS

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INTRODUCTION

The Camp David framework agreements themselves induce us to enquire as to their conformity or non conformity with the international positive law. Among the principles set forth by the Preamble, the agreements comprise in reality, "the United Nations Charter dispositions and the *other accepted standards in matters of international law and legitimacy"*; according to the agreement, they supply the parties with "rules of conduct generally accepted in the relationships between Nations". This enquiry demands the engagement in a juridical analysis ; it implies firstly a *methodical recall.*

1) THE PRINCIPLE OF LEGALITY

The international law having being based for a long time on one main source : that of treaties (accessorily accompanied by the custom) today forms a body of more complex rules which are being improved daily.

If the sovereign will of Nations remains the principal source of all law, it does not exclude the bringing into play of the principle of legality :

a) The will of Nations is expressed technically by various acts, and reveals itself in an initial or derived manner :

– general imperative law (jus cogens)

– United Nations Charter

– International Organizations acts (the motions of the General Assembly or Security Council... –

– bi or multilateral treaties, etc...

b) Even without the existence of a hierarchy concerning the acts as precise as in the internal laws, the international law shows a certain pyramidal form as regards its sources (confirmed for example in articles

53, 64 and 71 of the Vienna Convention of May 23rd 1969 relating to the law of treaties)[1].

The standards of jus cogens are thus superior to the treaties. A treaty opposing a rule of general imperative law is consequently annuled. It is advisable in this respect to note that the International Law Commission's recent works solidify more and more each year the contents of the standards of jus cogens, which are thus called to play a decisive role in the near future[2].

2) THE PRINCIPLE OF EFFECTIVENESS

The taking into consideration of the *effectiveness* is very important in international doctrine and jurisprudence (see the works of J. TOUSCOZ : "Le principe d'effectivité dans l'ordre international" ; L.G.D.J. 1964 and Ch. de VISSCHER : "Les effectivités du droit international public". Pedone 1967 and M. CHEMILLIER-GENDREAU : "A propos de l'effectivité en droit international", Belgian Review of international law, 1975, p. 38) : either the effectiveness is the basis of a solution where no texts existed (cf. decree of the Appeal Court of Paris on June 7th 1960, establishing the international under state controlled personality of the Democratic Republic of North Vietnam, on the basis of its effective existence, this international individuality benefitting from immunities of jurisdiction for its representatives) ; or else it leads to a different solution to that one issuing from existing sources (arbitration of Max HUBER in the island of Palmas affair or decree of the C.I.J. in the NOTTEBOHM affair).

3) THE PRINCIPLE OF NON-CONTRADICTION

The contemporary juridical consideration helps us forward in our analysis. It concerns therefore an enquiry into the foundation of law and to imagine it in a dialectical perspective as the settlement of contradictions. In order to do so, one must take as a starting point, the most effective contemporary definition which can be given of the international law rule and of its obligatory character[3].

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1. The Vienna Convention opened to the States' signature on the 23.5. 1969 had been signed by 61 Nations by the 31.12.1979 and ratified by 32 Nations on the same date (the United States signed it on the 24.4.1970). New approvals having intervened recently, it will come into operation at an early date. It is very widely considered as expressing the common law in the matter.

2. See Third World Directory : "Les Etats nouveaux et l'évolution du droit international", chronicle by J.P. COLIN, D. ROSENBERG and P. TAVERNIER, more particularly in 1978 and 1979.

3. This analysis issues from the combined works of Professor Ch. CHAUMONT. See especially : Cours de Droit international public, RCADI, 1970 et Travaux des

It will be remembered that the international law rule can be considered as the solution given in juridical form and at a precise historical moment, to a contradiction of a social nature, but it will be immediately specified that a rule of law will not be applied merely on account of its having been formulated : it is in this connection that we find the real interest of the analysis. The international law rule does not use its entire strength for imposing the conduct which it expresses, and it does not fulfill its social role of pacifying conflicts and stabilizing situations, except, when it really corresponds with the overtaking of a contradiction between two opposing demands.

This method leads under the circumstances :

a) *To the locating of the contradictions* which are expressed in the given situation and to check if the examined rules of law represent or not elements for the solution or the overtaking of these contradictions, in principle as well as in fact.

b) *To apply the principle of sincerity* which dominates the international law. The latter is based upon the logic of non-contradiction : "a Nation can not desire one thing and at the same time its opposite". (Charles CHAUMONT-RCADI 1970, p. 381). It is this principle which forces the finding of a solution to the problem of contradictory treaties passed by the same State for the same period of time.

c) *To put into practice the principle of the relative effect* of the conventions on the interpretation of the Camp David agreements and the subsequent Treaty.

Colloques de Reims : in "Réalités du droit international contemporain" (2ème colloque de Reims : "Le fondement du caractère obligatoire des regles de droit international") Reims, 1977.

PART ONE
THE RIGHTS OF THE PALESTINIANS

"The solutions from the negotiations must also recognize the legitimate rights of the Palestinian people and their just requirements"

(Framework agreements for peace in the Middle East)

We are concerned here with the examination of the manner in which the agreements of the 17th September 1978 and of the 26th March 1979 treat the question of the rights of the Palestinian people, in the international law context. We will be aided in this by the various methods already mentioned.

I – LEGALITY

One must first and foremost place oneself from the point of view of a strict juridical formalism and examine the dispositions of the agreements concerning the rights of the Palestinians in function with the corpus of established rules which the contemporary international law constitutes. It is *an examination of the legality of these texts.*

A) General Sources

To settle the problems posed by the Near East question, the contemporary international positive law disposes of one leading *general principle* constantly reaffirmed : *the principle of the right of peoples to self-determination.* This principle carries such weight today, that it is to be found expressed in every category of existing sources.

1 – It is asserted by the United Nations Charter. The second paragraph of the first article mentions that among the aims of the Charter is : "the development of friendly terms between Nations, based on the

respect of the principle of the equality of the rights of peoples and *their right to self-determination".* The United States, Israel and Egypt are members of the United Nations and parties to the constitutive treaty of the Organization.

2 – This principle is asserted in the first article of the two international Pacts relating to human rights :

"All peoples have the right to self-determination. In virtue of this right, they freely decide as to their political status and freely assure their economic, social and cultural development".

These pacts are international Treaties and have been signed by Israel and Egypt[4].

3 – Above all else, these Pacts were first voted under the form of a General Assembly motion (motion 2200 of December 16th 1966) *and as such, adopted unanimously by the United Nations General Assembly.* It was also unanimity (less 9 abstentions) which presided the adoption of the resolution 1514 on December 14th 1960, entitled "Declaration on the granting of independance to the colonized countries and peoples", of which only the first and second paragraphs are quoted here :

"The subjection of peoples to a subjugation, to a domination and to a foreign exploitation constitutes a denial of the fundamental rights of man, is contrary to the United Nations Charter and compromises both the peace cause and the worldwide co-operation. Every nation has the right to free determination ; in virtue of this right they freely decide as to their political status and proceed with their economic, social and cultural development".

Finally, it is by means of a consensus that the declaration 2625 of 1970 on the principles of international law relative to the friendly relationships between nations, was adopted.

"*The creation of a sovereign and independent nation,* the free association or integration with an independent state, or the acquiring of any other political status, freely decided by a people, constitutes for this people the means of exercising its self-determination".

On account of the very particular conditions in which they were voted (unanimity or consensus) and by the resounding echo that they provoked in the conscience of all peoples of the world, these resolutions have the benefit of an exceptional juridical regime, exorbitant as regards the juridical bearing customarily acknowledged towards the resolutions of the U.N. General Assembly. Firstly, an entire tendency of the doctrine agrees in giving recognition to an obligatory value, (ex. G. FISCHER, in

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4. International Pact relating to the economic, social and cultural rights, and International Pact relating to civil and political rights, opened to signing on the 19th December 1966, signed by Egypt on the 4th August 1967, by Israel on 19th December 1966, but non-ratified. The first one came into force on the 3rd January 1976, The second on the 23rd March 1976.

Vingt-cinq ans de Nations Unies, Paris, 1970). Also this doctrinal tendency meets up with the most recent jurisprudence (ex. the arbitration "Texaco-calasiatic contre gouvernement lybien", maxim at the base of January 19th 1977[5]). In this last affair, for every resolution decided by the General Assembly, the arbitral Tribunal enquired into the conditions under which the vote was passed, and saw as to whether or not the majority reunited really represented the *generality of Nations of the international community*. According to the arbitrator, if that is the case, these dispositions certify an existing law over which the generality of Nations have already come to an agreement. *They are declarative to common law.* "The consent of a majority of Nations, belonging to the different representative groups shows without ambiguity, the universal acknowledgement of the incorporated rules". Such is surely the case of precipitated resolutions which are unanimously accepted.

4 – However in virtue of the categories used at the present moment by the international positive law (such as it has been codified in the Vienna Convention on the law of treaties of May 29th 1969) it is possible to go even further with the analysis of the juridical value of the principle of the right of countries to self-determination. It can be affirmed that this principle really has a *conventional* value in the United Nations Charter and the international Pacts of Human Rights, that it really has a *common value,* but it has in addition the value of a *general imperative law principle* (jus cogens) that is to say, of a standard accepted and acknowledged as such by the international community of states in its totality (art. 53 of the Vienna Convention). On this point, the contemporary doctrine agrees to acknowledge that the idea of jus cogens, which is difficult to specify in practice, requires an agreement which, even if it does not need to be universal, should however emanate from Nations numerous and varied enough to represent the international community (R. AGO, Droit des traités à la lumière de la Convention de Vienne, RCADI 1971, p. 323). It has been sufficiently underlined in the preceeding paragraphs that such was the case, as to be able to conclude that if there still exists few principles which can be given as examples of rules of contemporary general imperative law, the principle of the right of peoples to self-determination is without context, one of these.

B) Special Sources

Facing this unity of numerous and concording sources giving its full value to the general principle, we find *sources of international law relating to the Near East conflict* (such as the Camp David framework agreements and the Israeli-Egyptian treaty of Washington). *We must confront them with the general sources in order to control their validity.*

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5. See International Law Journal (CLUNET) 1977

1 – Among the sources of international law relating to the Near-East conflict, there are firstly *the motions 3236 and 3237 XXIX) of the United Nations General Assembly.*

Fundamentally they are in perfect agreement with the general principle, as the first reaffirms "the inalienable rights of the Palestinian people in Palestine, also including :

a) the right to *self-determination without exterior interference,*

b) the right to national independence and sovereignty", and the second grants the quality of observer at the United Nations Assembly, to the Palestinian Liberation Organization.

In the form, the first of these two motions was voted by 89 votes for, 8 against and 37 abstentions. The second by 95 votes for, 17 against and 19 abstentions. Without representing the entire international community, as did the resolutions previously studied, they are based however on the will of a very comfortable State majority, presenting itself as an exact application of the general principle, to the particular Near East situation.

2 – In the Near East affair, great importance has always been attributed to *the resolution 242 (1967) of the United Nations Security Council.* It is often quoted in reference. It is aimed at from the preamble of the Camp David framework agreements, where it is said that this resolution "considered in all of its parts will serve as a basis for a peaceful settlement to the conflict between Israel and its neighbours". But, we know that this resolution, resulting from a compromise in the midst of the Security Council after the Six Days War, remained silent as regards the Palestinian people. Nevertheless, remote from acknowledging it as a text of circumstance attached to the Israeli agression of 1967, thus an effort was made to interpret it by making of it the foundation of the political settlement of the Palestinian question. In this interpretation, it is in contradiction with the fundamental rule which is of the strongest juridical bearing that can be imagined, that of the right of peoples to self-determination.

Effectively, the resolution 242:

a) "affirms the recognition of the sovereignty, the territorial integrity and the political independence of every State of the region..." : it is solely a question of already constituted States and of their frontier problems, not of their populations. The right of peoples to self-determination is not mentioned here and thus seems ignored as a basis to the settlement of the question ;

b) "affirms in addition the necessity to carry out a *just settlement of the refugees problem".* The Palestinian population is described as "refugees" and not as people, which reflects the situation as it existed in 1947 and doesn't take into consideration either the effectiveness of the Palestinian people, its resistance and its political organization, or the acknowledgments of which it already benefits.

Thus it is not doubtful that the resolution 242, by the mere fact

that it is not aimed at the right of peoples to self-determination in all the juridical machinery that we have previously described and refuses to the Palestinians the quality of people, according them only that of refugees, enters into contradiction with the corpus of conventional common and imperative rules analysed above. From summer 1977, the Palestinians were informing on this point that their assembling at the resolution 242 and consequently, their recognition of the State of Israel (which is included in the § 1 ii of the motion) would become possible if the Security Council amended its text by replacing the wish "for a just solution to the problem of the refugees" by a reference to "the national rights of the Palestinian people". Thus, but only thus, could the motion 242 be integrated into the logic of contemporary international law. Failing which, *it remains inefficient and invalid.*

3 – On the regional scale, a formal motion of the Islamic Conference at Lahore had on February 24th 1974 reaffirmed that : "the P.L.O. was the only legitimate representative of the Palestinian nation." The Arab League summit in October 1974 at Rabat, had, in addition recognized the Organization as *the only and legitimate representative of the Palestinian people* and affirms its right to establish a national power on all the Palestinian territory which would gain its liberty. It is a question here, of a regional international law which it is impossible to ignore in the search for a solution to the Arab-Israeli conflict.

4 – It was essential to distinguish these texts one from the other before arriving at the actual agreements and at the control of the validity of these agreements.

On the subject of the existence of the Palestinian people, the Camp David agreements which, from the preamble, as it was noted above, refer solely to the resolution 242 (which only mentions refugees) go further on this point however in the body of the text since they proceed to an explicit recognition of the Palestinian people.

Indeed, as regards to the western bank of the Jordan and Gaza, it is said : "Egypt, Israel, Jordan and the representatives of the Palestinian people should participate in the negotiations bearing on the solution to the Palestinian problem, under all its forms", and more : "Every solution issuing from the negotiations should also recognize the legitimate rights of the Palestinian people and its just requirements". "In this manner the Palestinians will participate in the determination of their own future by the following means..."

The Palestinian people is thus so mentioned and its legitimate rights, not its national rights, are invoked. Furthermore, this acknowledgement of the Palestinian people is immediately strictly enclosed, the Palestinians seeing themselves condemned to a limited administrative formula : that of autonomy, whereas it is the States of Egypt, Israel and Jordan who will have to reach an understanding about the modalities of the establishing of the elected autonomous authority.

Now, the resolution 2625 accords to all recognized people a choice both free and wide :

- the creation of a sovereign and independent State,
- or free association
- or integration with an independent State
- or the acquiring of any other political status freely decided

One must add to this limited and insufficient conception of the right of peoples to self-determination such as it results from the Camp David agreements, the political context developed during the days and weeks which followed the signing of these agreements and which were developed more after the signing of the Israeli-Egyptian treaty : we are thus forced to ascertain that all the Israeli declarations reduce further the full significance of the accorded autonomy.

– first of all, the Israeli colonies established in the territories occupied by Israel in breach of the last paragraph of art. 49 of the 4th Geneva Convention of 1949 (which forbids an occupying power to transfer parts of its civilian population to the occupied territory) should have to remain, according to Tel Aviv, under Israeli jurisdiction.

– the Council of autonomy could not promulgate laws without the Israeli government's consent. These territories are considered as "regions over which we have a claim to sovereignty" (M. ITZAK MODA'L, Israeli minister for energy and infrastructure, Maariv, November 3rd 1978). "No Palestinian State will be created. Not one. the duty of the Israeli army will be to prevent it. It is not by accident that the elected Council will bear the name of Administrative Council. Administration and nothing more. We proposed autonomy and not sovereignty and between them both there is an enormous difference" (M. BEGIN, Maariv, October 1st 1978).

– The Israelis defend the idea according to which the expression, *Palestinian people*, appearing in the agreement signifies : Arabs of Eretz-Israel, thus inhabitants of territories that M. Begin considers as being part of the historical birth place of the Jewish people.

– Finally, among the numerous restrictions bearing on a real conception of the right of the Palestinian people to self-determination it must be noted that the question of the designation of the refugees concerned by the agreement, is placed in parentheses. It is said that a permanent commission will be charged to form an agreement concerning the modalities of admission into Cisjordan and Gaza of persons having been deplaced in 1967. Israel will in fact dispose of a right to veto there. In such a way the administrative self-government could concern as little as one third of the Palestinian people, those who reside at present in the occupied territories, as well as a limited number of refugees to whom "all the interested parties as well as Israel" would accord the right to return. As for the refugees before 1967, they would not be concerned by this autonomy.

Beyond the restriction of the text : simple administrative self-government accorded to the Palestinians, the induced restrictive interpretation of the political context of the agreements, underlines sufficiently that these international treaties suffer from two contradictions which

confer upon them only a very doubtful legality under contemporary international law :

1st) The agreements of Camp David and Washington signed by the United-States, Egypt and Israel are in contradiction with the United Nations Charter signed by these three Nations and with the international Pacts of human rights signed by two of them.

They are therefore sullied, by *insincerity*, for a Nation cannot desire one thing and at the same time its opposite.

2nd) The agreements in question, particular treaties concerning a particular situation, are in contradiction with the general common law largely expressed in the resolutions 1514 and 2625. But they are also in contradiction with the general imperative law (jus cogens) by way of their restrictive and inaccurate conception of the right of peoples to self-determination and, from this point of view they are sullied by invalidity in virtue of article 53 of the Vienna Convention of May 29th 1969 : "any treaty which is in conflict with an imperative norm of the general international law, at the moment of its settlement is annuled".

This annulment should produce precise consequences such as have been foreseen by article 71 of the Vienna Convention "consequences of the annulment of a treaty in conflict with an imperative norm of the general international law.

1 – In the case of a treaty which is annuled on account of article 53, the parties are obliged:

a) to eliminate, as far as possible, the consequences of any act accomplished on the basis of a disposition that is in conflict with the imperative norm of the general international law and b) to render their relationships conformable to the imperative norm of the general international law.

Such is the conclusion imposed on the terms of this first approach made with the help of a particular instrument : the putting into practice of the principle of legality.

II – EFFECTIVENESS

It has been recalled in the preliminary matter that the contemporary international law gave a lot of place to the *notion of effectiveness*, somewhat as a counterpoint to the juridical formalism. The demanding of effectiveness today is a condition of existence and validity of the international juridical norm. A long-standing treaty can be null and void because it no longer realises with exactitude the effectiveness of the situation at present. But this is a delicate point and the taking into account of the effectiveness of a situation, should not for example go as far as ratifying an accomplished fact on the issue of an aggression. To go that far would be to permanently denude the law of all functions of justice and to paralyse every mechanism of responsability.

The question is what use can thus be made of the notion of effectiveness in view of a solution to the Near East problem, and what

use is made of it more precisely in the texts analysed here.

A new State is recognized today on the basis of the effectiveness criterion. When a people becomes effectively, conscious of its national identity and when it is prepared to prove it by means of its action (see Ch. CHAUMONT, "Le droit des peuples à témoigner d'eux-mêmes", Annuaire du Tiers Monde 1976, p. 15 et s.) it solicits an act of recognition on the part of the peoples already standing as Nations. Israel solicits recognition from all the Nations of the world and especially its arab neighbours, because since its creation after the plan to divide Palestine adopted on November 2nd 1947 by the United Nations General Assembly the effectiveness of the Israeli people and of the State of Israel has been manifested. But one must *establish correlations there where they should exist in order to settle the problems.* However, the question of Israel's effectiveness, juridical foundation of its recognition and of its right to be acknowledged as a Nation, is intrinsically attached to the effectiveness of the Palestinian people and to its political organization, juridical foundation of its recognition and of its right to be acknowledged as a people, and then as a nation. The recognition of Israel cannot go without the recognition of Palestine. The refusal of one, condemns simultaneously the other.

The extreme difficulty of the question comes from the fact that there cannot exist a Nation without the existence of *a people, government and territory juridically defined.* However, at the base of the problem, "the Arab Nations do not deny the existence of the Israeli people, and the latter do not deny the existence of the Palestinian people : the contradiction concerns the territorial consequence of this existence" (Ch. CHAUMONT, op.cit.).

In fact, *we have two peoples with two territorial problems.*

– Israel, with the wars and the successive annexations remains a Nations without frontiers. At the opening of the common sitting of the United Nations General Assembly of 1975, certain Arab Nations (especially Libya) had furthermore thought of developing, before the commission of the verification of powers, an argument having terms to which the representatives of Israel could not be admitted on account of not representing a Nation replying to the complete definition, Israel lacking frontiers.

– Palestine is formed of a people fully conscious of their national identity, disposing of a political organization, internationally recognized, the P.L.O. even being henceforth an integral member of the Arab League. However, the objective situation forcefully created, forbids on the other hand the P.L.O. to control a territorial fraction of Cisjordan, Gaza, with greater reason, territories occupied by israel in 1948-49. But the territory bears great importance when it is the real support of the national community, when it is inseparable from it. *When, for historic reasons attached to the domination against which it is revolting, a national community finds itself to a great extent exiled, the territorial effective-*

ness is no longer a condition sine qua non of the existence of an entity endowed with an international personality opposable to the third party Nations. (see l'Organisation de Libération de la Palestine, J.P. COLIN and Gérard PETIT, Annuaire du Tiers Monde 1976, p. 112).

Such is the only real correlation which can be established on this question, from a correct use of effectiveness. Now, this correlation is absent both from the resolution 242 of the Security Council and from the Camp David agreements themselves and also Israeli-Egyptian Treaty.

As for the resolution 242, it attaches the withdrawal of Israel from the territories occupied in 1967 to its recognition by the Arab Nations. It could, undoubtedly serve as a foundation in the search for a political agreement. It is no longer the case, with the restrictive interpretation given by the parties to the framework agreements. In this interpretation we are completely unaware that the two peoples (Israeli and Palestinian) issue to the international Society in its totality, the same demand for recognition and that the unity of the foundations of the international law obliges this international society in its totality to reply positively towards it. It does not make of this double recognition the initial basis of the negotiation. Likewise we are unaware that any aggression duly established should lead to a condemnation without nuances, and that under no circumstances can the aggressor be granted advantages in return for his withdrawal after the aggression. Now, the Israeli aggression is perfectly characterized, as is thus revealed by the motion of the General Assembly on December 15th 1975 which, with 86 votes for, 5 votes against and 24 abstentions, condemns Israel for : "the annexation of certain parts of occupied territory... the establishment of settlements in the said territory and the transferring of foreign population to these territories, the destruction and demolition of arab houses... confiscation and expropriation of arab property, evacuation, deportation, expulsion, deplacing and transferring of arab inhabitants from occupied territories and denial of their rights to return there, large-scale arrests, administrative detention and ill-treatment of which the Arab population is victim.. illegal exploitation of the natural wealths, of the resources and of the population of the occupied territories".

As regards the Camp David agreements and the Israeli-Egyptian treaty :

a) by their interpretation of the motion 242 they receive the same criticism ;

b) furthermore, if they do not explicitly remake the inacceptable liaison between the withdrawal of Israel and its recognition and if they initiate the recognition of the Palestinian people, it is in reality to deny the creation of a Palestinian Nation and to remain on the unacceptable concept of self-government.

In the light of the principle of effectiveness, the radical insufficiency of the Camp David agreements and of the Israeli-Egyptian treaty is obvious : they don't render any account whatsoever of the present situation of the Palestinian people and of its organization.

III – CONTRADICTIONS

The taking into consideration of the principle of non-contradiction leads here to the enquiry as to what are the contradictions expressed by the Near East conflict. One will notice in this respect that there are contradictions present in the social reality, that the treaties try to settle, but that there are others which spring from the treaties themselves.

A) The real contradictions in the putting into action of the right of peoples to self-determination.

The principle of the right of peoples to self-determination, largely analysed above, presented itself in international law as the overtaking and the solution to conflicts born of the revolt of peoples subjected to the colonial yoke. In the particular case of the Near East as in the other similar cases, the solution to the conflict can only proceed from the overtaking of the contradiction, by the putting into practice integrally of the right of peoples to self-determination.

The contradiction is not difficult to put into evidence : with the creation of the Nation of Israel in 1947/1948 and the Israeli-Arab war the Palestinians had been evicted from their lands. The result is that on the one hand the Nation of Israel has existed for 30 years and that its effectiveness is no longer contestable, and on the other hand, that by the creation of Israel, the right of peoples to self-determination was taken away from the Palestinians. The contradiction thus created has now been open for 30 years. It has expanded with the 1967 and 1973 wars, and with the implantation of Israeli-settlements on the occupied territories. The right of peoples to self-determination is the only possible solution to the Palestinian question. But its putting into practice has been rendered impossible because one of the terms of the contradiction : Israel's opposition to the expression of this right, has been reinforced for many long years, firstly by the intransigence of the governments which followed each other at the head of the Nation of Israel and afterwards by the important international support from which these successive governments benefitted. And yet, the other term of the contradiction : the existence of a Palestinian people, its effective organization, its sufferings and its organized struggle has developed with a strength which gives to the conflict its acute forms and which imperatively needs an adequate solution if we want to preserve peace. This solution cannot in any way be looked for outside of the participation of the interested parties themselves, thus, representatives of the Palestinian people : such as the P.L.O. recognized by the League of Arab Nations, O.A.U. and U.N.O.

That allows us to draw a first conclusion :

– *The treaties, ignoring the P.L.O. cannot bring about a satisfactory solution to the question of the rights of the Palestinian people.*

According to the rules of classic international law, there is here inexistence of the treaty due to the incompetence of the parties ratione materiae. The two nations are radically incompetent to settle by agreement, the destiny of a third party people.

B) The formal contradictions in the logic of the Camp David agreements and of the subsequent Israeli-Egyptian treaty (the concept of self-government).

The search for contradictions lets others be discovered, which arise from the central concept used by the treaties themselves, namely the *concept of self-government.*

As it will be proved in the discussion, the conception of self-government is here, in itself, totally unacceptable. We will however proceed firstly with the analysis of the texts.

1 – ANALYSIS OF THE TEXTS[6] AND CONTEXT

We must examine carefully the terms themselves used in regards to the Palestinian question :

– by the Camp David framework agreements
– by the complementary agreement of March 26th 1979
– by the different declarations which form its context.

a) in the Camp David agreements of September 17th 1978 are to be found the following terms :

- transfer of *authority*
- *full autonomy* to the inhabitants
- principle of *self-government* by the inhabitants of these territories.
- the parties will negotiate an agreement which will define the *powers and responsabilities of the self-governing authority to be exercised in the West Bank and Gaza.*
- the Israeli military government and its civilian administration *will be withdrawn* as soon as a self-governing authority has been freely elected by the inhabitants of these areas *to replace* the existing military government.
- the solution from the negotiations must also recognize the *legitimate rights* of the Palestinian people and *their just requirements.*

In this way the Palestinians will participate in the *determination of their own future* through :

Providing for the elected representatives of the inhabitants of the West Bank and Gaza to decide *how they shall govern themselves* consistent with the provisions of their agreement.

The entirety of this text sins in comparison with international law, because the clearest concepts and the most widely used in all the motions of the United Nations General Assembly on this subject are cruelly lacking :

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6. The English texts are here preferred to the French translations, all of them are unofficial, the authentic languages of the agreements being Arab, Hebrew and English, the latter language prevailing in case of diverging interpretations.

- self-determination
- independence
- sovereignty.

However, as it has already been stated, this text represents a formal progress as regards the resolution 242 of the Security Council in the sense that it acknowledges the legitimate rights and the just demands of the Palestinian people.

Moreover, this text was not the achievement of some international solicitation, it is the result of negotiations at which the Nation of Israel itself took part. It is furthermore very significant to see today, the Israeli government opposing itself vigorously every time the United States proposes to the Security Council the adoption of a resolution which, over and above the very insufficient terms of the resolution 242, would all the same limit itself to recover the Camp David agreemts terms... approved by Israel ! (cf. Le Monde August 21st 1979). The Israeli government seems to invoke, to justify itself, the fact that it will no longer be master of the interpretation of a text adopted by the United Nations Organization : *we undoubtedly could not confirm more the essentially formal character of the concessions torn from Israel in the negotiation.*

b) In the complementary agreement of March 26th 1979 are to be found the following terms or phrases :

– the purpose of the negotiations shall be to agree, prior to the elections, on the modalities for *establishing the elected self-governing authority (administrative council...)*

– the objective of the negotiations is the establishment of the self-governing authority in the West Bank and Gaza in order *to provide full autonomy to the inhabitants.*

– the Israeli military government and its civilian administration *will be withdrawn,* to be *replaced by the self-governing authority.* A withdrawal of Israeli armed forces will then take place and *there will be a redeployment of the remaining Israeli forces into specified security locations.*

Although reference is made to the Camp David agreements here, and the principle of full autonomy for the inhabitants is reaffirmed, two points are to be underlined which will be just as much subject to doubt :

– on the one hand, the word *autonomy* has its contents specified by a restrictive formula, that of an administrative council ;

– on the other hand, the withdrawal of the military government and of its civilian administration is no longer foreseen in such a clear manner as in the agreement of September 17th 1978 because *"the withdrawal of the Israeli armed forces"* which is well mentioned is matched with *"a redeployment of the remaining Israeli forces into the specified safe places".*

c) *Finally, if we stick to the ensemble of the declarations* made by the different Israeli government personalities including the Prime Minister himself, such as they had been transmitted by the press, the subjects

of worry over the maintaining and the strengthening of the contradiction are even greater still. It is not a matter of systematically bringing up these subjects here. Some of them will be given as examples (all of them have been formulated by present day Israeli Ministers of Government or by Mr. BEGIN himself, personal signatory to the agreements of September 17th 1978 and of March 26th 1979.).

– declaration according to which the military administration would stay in place in Cisjordan and in Gaza under the self-government regime, in order to keep control of the Jewish implantations in the region (the committee of the eleven Israeli Ministers charged with the preparation of the negotiations) ;

– declaration according to which the Israeli military authority would remain the source of power and could thus take back all its present day prerogatives in the case of conflict with the new local administration, particularly if the latter decided to pronounce itself favorable to independence[7] (Mr. BEGIN) ;

– declaration concerning what should be (or rather what should not be) the powers of the future-elected autonomous authority : strictly administrative powers, on no account legislative, the impossibility to collect taxes, to create radio stations or a central bank, to control the imports and exports, to issue postage stamps or money ; limited prerogatives in financial matters and in the security domain : the new autonomous administration would not have jurisdiction over the 3.000 or 4.000 Palestinians detained in the Israeli prisons at the present ;

– declaration according to which Israel would preserve its control of the domanial lands (or those which are no longer cultivated) and of the important reserves of water of the subsoil of Cisjordan and according to which the Israeli army would reserve the control of 72.500 hectares in Cisjordan to establish drill-grounds and new military camps there ;

– declaration according to which restrictions would be foreseen for the conditions of elections of the Council members (the programmes of candidates, if they are contrary to the security of Israel being forbidden).

2 *DISCUSSION*

Everything seems to speculate on the ambiguities carefully maintained around the term "autonomy" (self-government). If there really are ambiguities, they result from the fact that this term which is widely used throughout the whole period of colonization, is no *longer used today and has been almost abolished from the international law vocabulary*. It has

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7. A power formed in virtue of an international agreement and not by any kind of delegation of the Israeli military authority, would however have an irreversible juridical existence.

been suppressed from it because it was a transitory and compromising concept corresponding to the search for provisional solutions on the path to decolinization. The juridical strength given since 1960 to the principle of auto-determination and the right of peoples to self-determination , its universal and absolute character have eliminated the notion of autonomy from international law. (It is no longer to be found in the analytic index of international law manuals posterior to the 1960's)[8]. The use of the word autonomy in the agreements of September 17th and 1978 and of March 26th 1979 inspires the following remarks :

– banished from the international law vocabulary, the term of autonomy is now only a concept of internal law, used to designate administrative or constitutional formulas used for the status of certain provinces (Spain, for example).

– its use in two series of international agreements passed between two sovereign States and countersigned by a third is, in itself an important contradiction.

– if it had only been a question for Israel of according administrative self-government to a province, it would no longer have been necessary to negotiate with another sovereign State and seek the guarantee of a great power,

– if there had been international negotiation, it is because the state itself is of an international nature, it is because there can only be, at least in the end, the attribution to the Palestinian people of a *status existing in international order,* that is, leading to the self-determination and to sovereignty with all the legal rights which this latter necessarily contains.

– a restrictive and purely administrative conception of self-government, involving none of the Palestinian peoples' rights to self-determination, can only aggravate the contradiction and provoke the prolongation of the crisis.

C) The fundamental contradictions between a people's destiny and the fate of their land.

Fundamental contradictions appear again as soon as *the relations between the population and the territory are considered.*

The Camp David framework agreements, speak of "the resolution of the Palestinian problem in all its aspects", in a paragraph entitled "West Bank and Gaza". The tie is thus made only too clearly between Cisjordan and Gaza, territories which were indicated by the treaties on one hand, and by the Palestinian people's problems on the other hand. The same text also says : *"there should be transitional arrangements for the West Bank and Gaza for a period not exceeding five years.*

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8. It is true except in some very rare exceptions, especially that of the destiny which would be reserved for the moslem minority of the Philippines by the Tripoli agreements.

In order to provide *full autonomy to the inhabitants :* under these arrangements..." It concerns indeed the inhabitants of Gaza and Cisjordan and they are, without doubt, *agreements concerning the western bank and Gaza.* The object of the agreement is thus as it should well be, both the territory of Cisjordan and Gaza *and* their inhabitants.

Further on it can be read :

"These new arrangements should give due consideration both to the principles of *self-government by the inhabitants of these territories* and to the legitimate security concern of the parties involved" which confirms this essential union.

Finally, as if it was not already enough, the Camp David text disposes : "the parties will negotiate an agreement which defines the powers and responsabilities *of the self-governing authority to be exercised in the West Bank and Gaza".* The real object of the future autonomous authority is clearly shown here as being the territory of Cisjordan and Gaza.

As for the complementary agreement of March 26th 1979, it disposes : "They also agree that the objective of the negotiations is the establishment of the self-governing authority in the West Bank and Gaza in order to provide full autonomy to the inhabitants". Here again the same sentence points out both the place of autonomy and the people concerned by this status.

Thus if the question deserves to be raised it is not because of any kind of difficulty in the interpretation of the texts, it is because once again the declarations made on the subject by members of the Israeli government – and more so their present day politics – drains these texts of all veritable contents :

– autonomy would be granted to the inhabitants, but would not concern the territories of Cisjordan and Gaza, provinces included in the mythological Great-Israel : that very clearly signifies that the Jewish settlements would continue and would develop themselves on these lands ;

– among the Palestinian refugees, only the refugees of 1967 and not the others would benefit of the right to return ; and even so, the return of the latter would take place only under common agreement, case by case ;

– no sector of Jerusalem would be concerned by the engaged process.

1 – On the first point, we will point out only that the support of political (or administrative) powers is always double and concerns always and everywhere both the territory and the inhabitants. It is generally true, even in the hypothesis of the administrative decentralization, and it is, a fortiori in the hypothesis in which, as it has already been shown, we cannot but place ourselves here, which is that of autodetermination.

Mr. Ygal Allon himself, previous Minister of Foreign Affairs of the State of Israel said it in the most clear manner even if it is a paradox (see Journal Le Monde of April 6th 1979) when he put Mr. BEGIN on his

guard against "his partners' ideas in the coalition, which want to establish a distinction between the territorial autonomy and the autonomy for the arab residents. This theory is not viable, for *every people is attached to its land*".

Moreover, the modern international law only assigns the principle of autodetermination, when setting up the national community as a State. Now, the criterion used to indicate the Palestinians in the texts analysed here, is really the national criterion. The Palestinians are called Palestinians because they historically occupied a land which is called Palestine.

The criterion of indication of the agreements of September 17th 1978 and of March 26th 1979 is not a criterion issuing from a social or religious identification for example.

It is really the *national* criterion.

And the nation, substratum of the State is the historical synthesis of the people and of its land. To try to introduce into the concept of autonomy used here, a distinction between the territory and the inhabitants is juridically aberrant. The texts do not introduce this distinction.

2 – The question of the right to return for *all* the Palestinian refugees is essential. Once again, it is appropriate to mention that the texts themselves seem clear on this point : "The representatives of the Palestinian people...", "the delegations of Egypt and Jordan may include Palestinians from the West Bank and Gaza or other Palestinians as mutually agreed", propositions of the Camp David agreements of which the second is textually reproduced in the complementary agreement of March 26th 1979.

It would however be vain and naïve, to confine oneself to that, even if it entails establishing the evident contradictions existing between the agreements and the Israeli declarations already quoted. The Israeli policy forbids the sincere observer from doing so. Not only does the Israeli government not contemplate the return of all the refugees wishing to do so, but it also sets aside any idea of dispersing the Jewish settlements established in the occupied territories. Moreover the implantation of these colonies is continuing, with its evident complicity – a "rampant" colonization has even been mentioned (Le Monde August 19th and 20th 1979) – not only in Cisjordan and Gaza but also in the Golan.

The logic of Mr. BEGIN's politics thus appears : to limit to the maximum the refugees' return, to develop the Jewish settlements in Cisjordan and Gaza, restrain the "autonomy" to forms of local administration, to try to have the accomplished fact endorsed little by little. Ever since, we cannot but notice the contempt with which he has always treated the motions adopted by the United Nations Organization.

Let us bring to mind again the fact that the prohibtion of settlements in occupied territories is in any case a flagrant violation of well-established rules of general international law, under the circumstances :

– a text of a general character is of the greatest importance : the

Geneva Convention concerning the protection of civilians in war-time, on August 12th 1949,art. 49 last paragraph which prohibits settlements in occupied territories ;

– a certain amount of United Nations motions taken in application and recall of this principle. (The last and most firm to date is the motion of the Security Council of July 20th 1979 asking "the Government and the Israeli people to stop urgently, the establishing, the edifying and the planning of colonies in the arab territories, occupied since 1967, including Jerusalem").

3 – Finally on the subject of Jerusalem we notice only :

– that the treaties' texts are silent,

– that the Israeli declarations proclaim that Jerusalem had been united in 1967 and that "there was no question of a partition between the East and the West : Jerusalem will stay one and individable",

– that Jordan aided by the U.A.R. had many times before let it be known that it was ready to accept the internationalization of the city under condition that this status be applied to the whole of the city and not only to the sector occupied in 1967,

– that King Hussein of Jordan reaffirmed on June 11th 1979 during a journey in France, the importance of the Jerusalem problem, saying especially : Arab Jerusalem should return under Arab sovereignty, and in this framework it could become a symbol of peace".

The reunification of Jerusalem had been proclaimed by force and in the framework of the annexation of certain territories after the Six Day War : the question remains open under all its aspects : we cannot but notice it today.

PART TWO :

THE REPORTS OF VALIDITY BETWEEN THE ISRAELI-EGYPTIAN TREATY OF MARCH 26th 1979 AND THE OTHER TREATIES CONCLUDED BY THE PARTIES

The problem which is raised here is that of the compatibility between the different obligations assumed by a Nation on account of its various engagements. Every treaty passed by a Nation ties it down by means of one or more obligations formulated by this treaty. The co-ordination of the various obligations assumed by a Nation depends entirely on its sincerity, on the assurance as to where its partner is to be found at the moment T and that this State (not being able to desire at the same time one thing and the opposite of that thing) is not submitted to contradictory obligations by another Treaty passed at the moment T1 and still valid at the moment T. The question is as old as the very existence of international Treaties. The general solution is clear : it issues from the United Nations Charter and the Vienna Convention of May 29th 1969 on the law of Treaties.

In the same context the Israeli-Egyptian Treaty of March 26th 1979 in its article VI, paragraphs 4 and 5, proposes a solution that can be applied to the parties' obligations in the present case. This solution requires interpretation and discussion.

I — THE TEXTS AND THEIR INTERPRETATION

A) Article 103 of the United Nations Charter must first be mentioned : "In the case of conflict between the obligations of members of the United Nations in virtue of the present Charter and their obligations in virtue of any other international agreement, the first named will prevail". It is deliberately alluded to by the Israeli-Egyptian Treaty of March 26th 1979. This article 103 of the Charter, exhorting as we shall see, international rules on the question, gives priority to the obligation of the Charter, over obligations concluded previously to the signature of the

Charter and even over obligations which would not be concluded between the same parties. This very particular character explains itself by the universal nature of the organization. This is what the doctrine names the hierarchical principle inside treaties.[9] It only applies itself furthermore to the profit of the United Nations Charter.

In the case of the Israeli-Egyptian Treaty, the article 103 of the Charter is deliberately invoked, which is quite normal, and its application here does not raise any problem. It only confirms all that has been said in this study, on the question of autonomy. In order that the Israeli-Egyptian Treaty and its annexes should not be contrary to the obligations contained in the Charter, especially in its firstarticle, paragraph 2 : "The aims of the United Nations are the following... 2) to develop friendly relations between the Nations, based on respect of the principle of the egality of the rights of peoples and of *their right to self-determination...*" only the interpretation of the term of autonomy proposed here, is possible.

B) In the Vienna Convention of May 20th 1969, the question of the application of successive treaties dealing with the same matter became the object of article 30 :

"1 – Without prejudice to the dispositions of article 103 of the United Nations Charter, the rights and obligations of the States, parties to the successive treaties dealing with the same matter are determined in accordance with the following paragraphs :

2 – When a treaty specifies that it is subordinate to an anterior or posterior treaty, or that it must not be considered as being incompatible with this other treaty, the dispositions of the latter prevail.

3 – When all the parties to the anterior treaty are also parties to the posterior treaty, without the anterior one having been ended or its application having been suspended in virtue of article 59, the anterior treaty is applied only in so far as its dispositions are compatible with those of the posterior treaty.

4 – When the parties to the anterior treaty are not all parties to the posterior treaty :

a) in the relations between the Nations, party to the two treaties, the rule to be applied is that one stated in § 3.

b) in the relations between a Nation party to the two treaties, and a Nation party to only one of them, the treaty to which the two Nations are party, govern their rights and mutual obligations.

5 – Paragraph 4 is applied without prejudice of article 41, to all questions of extinction or of suspension of the application of a treaty in the terms of article 60, or of any question of responsability which can come into being for a Nation, on the conclusion or the application of a

9. See: "Le facteur temps et les traités", Cours de G.E. Nascimento e Silva, (RCADI 1977 tome, p. 244).

treaty whose dispositions are incompatible with the obligations which devolve upon it as regards another Nation in virtue of another treaty".

Article 30 represents in truth, the synthesis of an old doctrine already formulated by Vattel and Grotius and of common rules themselves very old.

The settlement of the conflicts of successive treaties bearing contradictory obligations is come to by the use of two distinct principles according to the situations:

– the principle of lex prior entails the annulment of a treaty if its execution signifies the rupture of an anterior obligation. It is the principle which inspires article 40 § 4 b) under the hypothesis that the two parties are not the same to the two successive treaties, and article 30 § 5 which goes as far as foreseeing the responsibility of the Nation concluding a treaty whose dispositions are incompatible with the obligations which devolve upon it as regards another Nation in virtue of another treaty,

– the principle of lex posterior is foreseen by the § 3 article 30 of the Vienna Convention : if two contradictory treaties have been concluded between two same Nations, the last in date prevails over the earlier one.

C) As for article VI, § 4 and 5 of the Israeli-Egyptian Treaty of March 26th 1979 it disposes :

"4 – The parties undertake not to enter into any obligation in conflict with this treaty ;

5 – Subject to article 103 of the United Nations Charter, in the event of a conflict betwen the obligations of the parties under the present treaty and any of their other obligations, the obligations under this treaty will be binding and implemented".

The question was certainly debated at great length for article VI § 5, is one of two which were the object of an imperative letter signed by the contracting parties and countersigned by J. Carter (agreed minutes to articles 1, 4, 5 and 6 and annexes 1 and 3 of Treaty of peace). It can be read : "It is agreed by the parties that there is no assertion that this Treaty prevails over other Treaties or agreements prevail over this Treaty. The foregoing is not to be construed as contrevening the provisions of article VI (5) of the Treaty which reads as follows :... following is the text of the article VI (5) without any alteration.

In all, the parties had not considered that the treaty would prevail over other agreements simply speaking, but in the eventuality of a conflict, the obligations of the treaty of March 26th would continue to prevail and with the accentuated force that is expressed by the restrained English terms whose meaning is very clear" ... the obligations under this Treaty will be binding and implemented".

II – DISCUSSION

Is the article VI, § 4 and 5 of the Treaty of March 26th 1979 correct as regards the norms of international law on the subject of successive treaties such as they were recalled above ?

To our mind, it cannot be correct except in one interpretation alone, the one in which the § 5 of article VI is merely the development of § 4 of the same article.

In the § 4 the parties engaged themselves not to contract any obligation in contradiction with this treaty in the future. In the § 5, this obligation is specified and if, through carelessness, the parties contracted hereafter new obligations contrary to the treaty, it would be those of the present treaty which would prevail, and not the others (les prior).

The § 5, despite its imprecise wording, (it seems to allude to all the other obligations of the parties and not the posterior obligations alone) only supports this restrictive interpretation to remain legally acceptable, that is to remain consonant with the Vienna Convention. It is this the position defended by the Egyptian representatives every time the question was raised, and from before the signing of the treaty, when they recalled that their anterior interarab engagements would always have priority over their other international engagements (see Le Monde of January 27th 1979). On the eve of the signing of the treaty, the press thus announced mutual concessions : Egypt no longer fixed a deadline for the organization of the elections in Cisjordan and in Gaza and Israel accepted the exchange of no longer enforcing that the new agreement should, if not annul at least supercede any other agreement concluded by Egypt with the rest of the Arab world, since there would be contradiction between the two spheres of obligations.

To tell the truth, the crux of the matter comes from the existence of Egypt's anterior engagement with other parties. It concerns the Convention of common Defence of 1950 which, signed by the member States of the Arab League, foresees that "the contracting States esteem that any armed aggression aimed at one or more of them is considered as being aimed at all of them at once". The Egyptian representatives clearly specified on numerous occasions (declarations of Mr. Mustapha Rhabil related in Le Monde of March 23rd 1979 and of April 11th 1979) that Egypt did not consider itself concerned by the inter-Arab Defence agreement if an Arab country perpetuated an aggression against Israel, and that the precedence of the Arab Defence pact over the treaty of peace with Israel would not become operative except in the case of an Israeli agression against an Arab Nation.

It remains clear, anyhow, that the contemporary international law does not permit the treaties of 1978 or 1979, no more than any other, to annul engagements previously concluded by Egypt with other parties. Having said this, we can also specify on this subject that the present coexistence for Egypt of obligations issuing from the Arab defence pact can lead to the use of the distinction made by H. Lauterpacht, between

the patent incompatibilities of obligations, which are those expressed by the texts themselves (ex. the signing of a treaty of aggression by a member State of the United Nations) and the latent incompatibilities of obligations, that is in which there is a potential conflict. The latent incompatibility of obligations does not entail its interruption in the hypothesis that the obligations of the first treaty would expire. In the present case, it is obviously a question of a latent incompatibility which does not in itself entail the annulment of the posterior treaty. All the same, the fulfilment of the engagements foreseen in the treaty of March 26th 1979 (the carrying out of the Israeli-Egyptian separate peace) being effectively incompatible with the obligations issuing from the Arab defence Convention for Egypt in the hypothesis of an Israeli aggression against a member State of the League of Arab States, this circumstance would automatically entail the interruption of the obligations issuing from the treaty of March 26th 1979 for Egypt.

Let us specify again that article VII of the Treaty foresees deliberately that "the litigations arising from the application and the interpretation of this Treaty would be settled by means of negotiations" and it adds that if the litigations cannot be settled by these means "they will be settled by means of conciliation, or submitted to arbitration". Lacking other precisions, we can go no further as regards this matter. Let us notice however that before such solicitation, it cannot be seen how the application of general rules can be separated from international law seeing that the rights of third-party States would be implicated. Article III of the Treaty of March 26th 1979 deliberately reflects on it, the Parties engage themselves to apply between them dispositions of the United Nations Charter and the principles of international Law governing the relations between Nations in peace time, "between them" a fortiori in their relations with third-party Nations.

PART THREE:

THE INTERNATIONAL CONTROL MECHANISMS FORESEEN BY THE TREATY

Considered by the Treaty of March 26th 1979, described in detail by the Annex N° 1 ("Protocol concerning the Israeli withdrawal and the security dispositions"), the recourse to United Nations "forces and observers" is not the least surprising element of the system put into place by the Israeli-Egyptian agreement : it constitutes at the very least, a real stipulation by another and could become operative only with the agreement of the other interested parties, under the circumstance, at the price of a fixed decision by the Security Council Organization. The signatories to the Treaty did not limit themselves to putting it off till a further Council decision : once more, they defined beforehand – and in detail – the character of the international force which should be created on that occasion, if it should follow them in that manner, the Council could only but take back the terms themselves of article 4 of the Treaty and of the Annex N° 1 ; such is, it would seem, the spirit in which these texts were written and pproved, of course by the United States as well.

I - THE GENERAL ECONOMY OF THE SYSTEM WILL BE THE FOLLOWING :

1 – The recourse to "United Nations forces and observers" would have as its aim, in the same right as all ("the other security arrangements") to assure the maximum of security to the two parties (article 4 § 4 of the Treaty).

Two kinds of staff should be supplied by the United Nations :

– an appropriately called force whose mission would end whatever the circumstances, at the Israeli frontier,

– observers whose mission would be situated in zone D, that is on Israeli territory and at Gaza but, let us remember, along the frontier line and only to a depth of a few kilometers.

2 – The United Nations personnel would be stationed "in the zones described in Annex 1 (article 4of the Treaty) : in fact annex 1 does not formally contemplate the quartering of the international forces except in zone C, limited by the line "B' (a green line) to the west, and the international frontier and the Gulf of Akaba to the East, in other words, the most oriental Egyptian zone, at the Israeli frontiers (annex 1, article 2 c).

In this zone C, however only the United Nations forces and the civilian Egyptian police could be stationed (annex 1, article 2 c 2). In reality, while "(establishing) its specific sites in consultation with Egypt", the international force would be essentially implanted in two highly strategic places (annex 1, article 2 c 5) :

– to the North of Sinai, at about 20 Kms. from the Mediterranean sea, in the region adjoining the Israeli frontier

– in the region of Sharm-el-Sheikh,

3 – The mission of the forces and the international observers would be accomplished in the conditions given in detail in annex 1 especially in its article 6, it being understood that the parties are in agreement about asking the United Nations to detain the disposition necessary in this aim (annex 1, art. 6 par. 2) :

a) the properly so-called forces would make use of their control on Egyptian territory (zones A, B and C in fact all the Egyptian territory to the East of the Suez Canal); the observers making use of theirs in Israeli territory and at Gaza (in fact, in the narrow zone D)

b) along the international frontier, along the line B (between the zone B and the zone C) as well as inside zone C, check points would be set up, as well as observation posts and assured reconnoitring patrols.

c) a periodic verification of the application of the annex 1 dispositions, especially of the Israeli withdrawal from Sinai within a maximum delay of three years, limitations imposed on the armed presence in the 4 zones created by the Treaty as well as the military air-regiment and naval-regiment put into place, would be carried out at least twice a month, unless the parties decide otherwise. Supplementary verifications should take place on the demand of one of the two parties within a delay of 48 hours. The verification teams would be accompanied by officers of Egyptian attachment in Egyptian territory, Israeli in Israeli territory. They would have freedom of movement and other facilities necessary for the accomplishment of their task. The results of their inspections would be communicated to both parties.

d) the forces and the observers should also guarantee the freedom of navigation foreseen by article 5 of the Israeli-Egyptian Treaty in the straits of Tiran and the Gulf of Akaba (whose character of international waterways open to all Nations for the freedom of navigation or of flight-over, had been affirmed in passing).

e) on the other hand, the forces and the observers would not have the power to authorize the crossing of the international frontier alone ;

once more, the observers would furthermore have access to the Israeli territory and to Gaza (zone D).

4 – The forming of these international forces is itself considered according to a method which would reserve a primordial role for the parties, as they would have to suit countries who would be invited to provide contingents; and that in all events, the permanent members of the Security Council would have to abstain from participating, the same rules being set down for the observers.

The parties also wish that the United Nations adopt the measures which, at the command level, assure the greatest efficiency ("The Parties agree that the United Nations should make those command arrangements that will best assure the effective implementation of its responsabilities" annex 1, article 6).

5 – The deployment of these international forces is foreseen with much precision, especially by an appendix to annex 1 ("Organization of movements in the Sinai"), especially in its articles 1 – par. 1 b), 3 par. 1 and 25 ; 5 (temporary buffer zone) ; 6 par. 4 b) and c) and 7 par. 1 b). The general principle here is that according as the armed Israeli forces pull out of Sinai, the United Nations forces immediately enter the evacuated zones to establish temporary buffer zones in view of maintaining a separation of forces, the deployment of the United Nations forces having to preceed – the movement of all other personnel – in fact Egyptian, civil or military – in these zones.[10]

Article 3 foresaw especially that the parties would ask that the United Nations forces be deployed, when it would be necessary, for assuming the functions described in the document, until the final accomplishment of the Israeli withdrawal. For this means, the *parties had deliberately foreseen the approval of the redeployment of the United Nations Urgency Force.*

6 – As for the duration of the international forces mandate, if article 4 of the Treaty refers to it, it is not specifically foreseen *but the parties engaged themselves not to ask for, unilaterally, the withdrawal of the United Nations personnel, the latter not being able to be withdrawn unless the parties decide otherwise, "that on approval by the United Nations Security Council, involving the affirmative vote of the 5 permanent members".* The Treaty only foresees that on the request of one or other of the parties, the dispositions of security of article 4 could be reviewed and amended by the mutual agreement of the parties, "the approved review" already mentioned specifying on this subject "it is agreed between the parties that the revision stipulated in article 4 will be undertaken on the request of one or other parties, within a three month

10. That which, specifies article 8 of the appendix, would not prevent Egypt from taking up the exercise of its full sovereignty in the evacuated parts of Sinai, as soon as the Israelis withdraw.

delay following such a request, but that no amendment will be made except by mutual agreement between the two parties".

Such an entirety would call for many observations, for the moment we will limit ourselves to a few remarks concerning the two options opened by the agreements, the recourse to the United Nations, the creation of a multinational force.

II – THE FIRST OPTION : THE RECOURSE TO THE UNITED NATIONS

The putting into operation of the apparatus thus foreseen could not be assured unless the Security Council decided formally to do so. If this were to be the way, at some time or another many problems would certainly be raised.

1 – The Council should confine itself, not only for the forces' formation and the mission of observation, but also for their mandate, under the Israeli-Egyptian agreement terms.

It is certainly not juridically unthinkable, the United Nations forces operating on the territory of member States only with the agreement of the latter, since their action is situated outside of the measures of coercion foreseen by Chapter VII of the Charter "Actions in the case of a threat against peace, of rupture of peace and of acts of aggression".

However, the composition of the international forces would be delicately determined, and the prohibition of permanent members of the Council would seem to some, contradictory to the military role, that at least on a transitory claim the United States are going to continue to play in application of the Israeli-Egyptian agreements. Let us specify on this matter that article 7 of the appendix to annex 1 deliberately foresees that "the two parties ask the United States to continue their flights of aerial vigilance in virtue of the interior agreements, until the accomplishment of the final Israeli withdrawal" and (that they) ask the United States open-country mission, operating at Sinai to continue its operations in accordance with the previous agreements and until the accomplishment of the Israeli withdrawal from the region situated to the east of the pass of Giddi and of Mitla, after which the mission will be finished". Other engagements examined further back leave hovering the threat, or sparkling the promise, of a United States military intervention on the ground (especially those which result from the Israeli-American memorandum of March 26th 1979).

2 – The financing of such an operation would not fail to bring up big difficulties as soon as it would be contemplated to have it supported by all the member Nations, and insofar as, in that domain the cost is very high. The present example of the United Nations Interim Force in South Lebanon (UNIFIL) is eloquent : the costs taken on largely go beyond 10 million U.S. dollars a month, normally beared by all the member Nations according to the proportions fixed by the scale of their quota for the United Nations general budget, without prejudice to

volontary contributions. It is difficult to see the very many Nations who condemned the separated peace between Israel and Egypt, accepting to bear the financing of an international force in Sinai ... starting with the member States of the Arab League. [11]

3 – From a juridical point of view, the authors of the agreements of March 26th 1979 did not succeed in enclosing their project within the strict limits which they had been assigned : in imagining that the international force be created and deployed on the ground and that at a certain moment, one of the parties, lets say Egypt, asks for its withdrawal unilaterally and contrary to the stipulations of the Treaty of March 26th 1979, it would undeniably violate the obligations which issue for it from this treaty, and would engage its international responsability towards the other party. As regards the United Nations, on the other hand, it is hard to see on what juridical basis they could refuse to withdraw the contingents in question, in so far as once more it is situated outside of the coercive logic of Chapter VII of the United Nations Charter. Unless it considers the unilateral request for withdrawal as an aggression in the sense of article 39 of the Charter, which could originate only from the formally or implicitly unanimous accord of 5 permanent members of the Security Council, instance of qualification and there would probably be misuse of law if we stick to the definition of aggression given by the General Assembly in its motion 3314 on December 14th 1974 already quoted, the United Nations would be forced to order in such a case, the withdrawal of their forces.

4 – The Treaty of March 26th 1979 was signed on the first application of the Camp David agreements and the entirety of these diplomatic instruments thus forms a unit. Insofar as they only contemplate the self-determination of the Palestinian people, under conditions which are in themselves contrary to contemporary international law, they contradict equally and formally the decisions taken on this subject by the United Nations, especially the General Assembly motion 3236 which assigns the law to the sovereignty and national independence of the Palestinian people, analysed above. Since we know that the Palestinian Liberation Organization had been acknowledged as the exclusive representative of the Palestinian people, that it has the status of observer as regards the General Assembly and that, since January 12th 1976 it has been invited to participate in the Security Council work, when the Near East question is on hand, we measure the vanity of certain formulas. Let us note, furthermore on this subject that if Israel at first boycotted the Council's work at which the leader of the political department of the P.L.O. assisted, it later renounced this attitude, which could lead it only to an even greater isolation and the first face to face was held during a

11. It is true that a certain number of Nations refuse to participate in the financing of the UNIFIL.

sitting of the Council reunited on March 23rd 1976 : the reunion was to be furthermore the occasion for the American delegate, William Scranton, to declare that the annexation of the entire town of Jerusalem by Israel and the creation by this country of settlements in the occupied territories, East-Jerusalem included, are two illegal acts... that which did not prevent him from opposing his veto to a project of a moderate resolution which, precisely on these two subjects, had the unanimity of the 14 other Council members !

Neither the United Nations as a whole, nor the Security Council could accept in this way to indulge in the game of putting the Camp David accords into operation, under their present form without stulftifying themselves over a political question considered as being primordial by the Arab nations, the non-aligned Nations, the socialist Nations and a growing number of occidental Nations... that evidently does not seem very probable. In reality, the signatories of the agreements probably did not entertain any illusion on this matter ; did they not foresee a system of replacement ? In a letter addressed to the President of the Arab Republic of Egypt and another, similar in all aspects, addressed to the Prime Minister of Israel, both of them adjoined to the Treaty of March 26th 1979, President Carter, while reaffirming that "the dispositions concerning permanent stationing of United Nations personnel in the designated zones... can and should be carried out by the Security Council", while specifying that "the United States will deploy all their efforts.. in order to obtain the required action from the Security Council" adds : *"If the Security Council does not succeed in establishing and maintaining the arrangements requested by the Treaty, the President (of the United States) will be disposed to take the necessary steps to ensure the establishment and the maintenance of (an acceptable alternative multinational force)".*

III – THE SECOND OPTION : THE CREATION OF A MULTINATIONAL FORCE

Is this then the road on which we are engaged from now on ? Nothing is less certain and after all, the situation remains quite confused.

1 – At the same time as its reunion last July 24th, the Security Council decreed during a reunion behind closed doors, which, under the insistence of the U.S.S.R. – if at least the western observers can be believed – the only public review given was a press declaration by the General Secretary of the Organization[12].

Two decisions were taken, directly concerning the situation in the Sinai :

– On the one hand, contrary to the wishes formulated by the

12. Cf. especially Le Monde of July 26th 1979, p. 3

signatories of the agreements of March 26th 1979 (especially in the appendix of annex 1, article 3 § 1: see above), the United Nations Emergency force, created on October 25th 1973 to separate the Egyptian and Israeli armies in Sinai, has juridically ceased to exist. Its dissolution and the calling home of the 4.000 United Nations troops "Blue helmets" should be finished by September, but the dismantling of its installations would be prolongated till the end of the year,

– On the other hand, the military observers of the organism for the surveillance of the Truce (O.N.U.S.T.) which lent them their assistance remain in place, *and that in spite of Israel's opposition*.

This double decision does not lack in ambiguity :

– If the Council has put an end to the U.N.E.F. mandate, an agreement was however extracted, especially between the United States and the Soviet Union, to maintain on hand observers from the organization of which it can be imagined they play a part in the process of the Israeli withdrawal,

– Israel however is opposed to it, hoping, without a doubt that the departure of the U.N.E.F. would allow the putting into place of a multinational force, independent of the United Nations organization. It even proposed that, while waiting for the creation – all the same problematic – of the latter, Egypt and Israel come to an agreement over a new force : the creation of mixed Israeli-Egyptian patrols.

– as for Egypt, the voice of its representative on the Security Council, Mr. MEGUID, it has at first, refused to give its accord to any formula of this type whose most evident result would be to maintain and eternalize the Israeli military presence in the Sinai without a real counterpart.

PART FOUR:

THE PARTIES TO THE AGREEMENTS

A – In the same way as for the Camp David framework agreements, the Arab Government of Egypt and the Government of Israel are signatories to the Treaty of March 26th 1979 and to its annexes, the President of the United States of America adding his signature to theirs in his capacity as a witness. (Witnessed by : Jimmy Carter). *From a juridical point of view,* this capacity would be able to avoid raising problems insofar as the well-meaning intervention of a third party Nation had been called for in the course of a negotiation. The only question likely to be brought up, in the light of the Vienna Convention of May 29th 1969 on the right of Treaties, is relative to the free consent of the parties to be tied down by the dispositions of the Treaty and by its annexes : it must be admitted that in itself, the presence of a third-party Nation does not constitute such a restraint on one of the Parties, as that the expression of its consent is to be found necessarily corrupted.

It is advisable however to note that on the date of March 26th 1979, President Carter addressed to the two signatories of the agreement, a letter by which, "subject to United States constitutional processes", he takes a series of highly significant engagements :

– "in the event of an actual or threatened violation of the Treaty of Peace between Egypt and Israel, the United States will, on request of one or both of the Parties, consult with the Parties with respect thereto and will take such other action as it may deem appropriate and helpful to achieve compliance with the Treaty",

– "the United States will conduct aerial monitoring as requested by the Parties pursuant to Annex 1 of the Treaty",

– "the United States will exert its efforts to obtain the requisite action by the Security Council",

– "if the Security Council fails to establish and maintain the arrangements called for in the Treaty, the President will take those steps necessary to ensure the establishment and maintenance of an acceptable alternative multinational force."

Moreover, in a "memorandum of agreement between the U.S. and Israel" published by the New York Times of March 29th 1979, it is specified.

..."Recognizing that the withdrawal from Sinai imposes additional heavy security military and economic burdens on Israel ;

The Governments of the United States of America and of the State of Israel subject to their constitutional processes and applicable law, confirm as follows:

1 – In the light of the role of the United States in achieving the Treaty of Peace and the parties' desire that the United States continue its supportive efforts, the United States will take appropriate measures to promote full observance of the Treaty of Peace.

2 – Should it be demonstrated to the satisfaction of the United States that there has been a violation or threat of violation of the Treaty of Peace, the United States will consult with the parties with regard to measures to halt or prevent the violation, ensure observance of the Treaty of Peace, enhance friendly and peaceful relations between the parties and promote peace in the region, and will take such remedial measures as it deems appropriate, which may include diplomatic economic and *military* measures as described below.

3 – The United States will provide the support it deems appropriate for proper actions taken by Israel in response to such demonstrated violations of the Treaty of Peace. In particular, if a violation of the Treaty of Peace is deemed to threaten the security of Israel, including, inter alia, a blockade of Israel's use of international waterways, a violation of the provisions of the Treaty of Peace concerning limitation of forces or an armed attack against Israel, the United States will be prepared to consider, on an urgent basis, such measures as the strengthening of the United States presence in the area, the providing of emergency supplies to Israel and to the exercise of maritime rights in order to put an end to the violation

4 – The United States will support the parties' rights to navigation and overflight for access to either country through and over the Strait of Tiran and the Gulf of Aqaba pursuant to the Treaty of Peace.

5 – The United States will oppose and, if necessary, vote against any action or resolution in the United Nations which in its judgment adversely affects the Treaty of Peace.

6 – Subject to Congressional authorization and appropriation, the United States will endeavour to take into account and will endeavour to be responsive to the military and economic assistance requirements of Israel.

7 – The United States will continue to impose restrictions on

weapons supplied by it to any country which prohibit their unauthorized transfer to any third party. The United States will not supply or authorize the transfer of such weapons for use on an armed attack against Israel, and will take steps to prevent such unauthorized transfer.

These engagements evidently go very far beyond the simple "testimony" and even leave hovering very clearly the threat of an American intervention. One can wonder what is their juridical value: it is very weak in American constitutional law, for the most serious of these measures should be authorized in every case by the Congress, and doubtful in international law, for those of these engagements which are likely to contradict the fundamental principle of non-intervention (art. 2, § 4 of the United Nations Charter).

B – It being a matter of the parties to the agreements, it will again be noticed, the absence of representatives of the Palestinian people, whose rights are implicated here. In any case, it is clear that the texts engage only the Parties to the agreements, according to the relative effect of the Treaties.

It is easy to consider that it is only in its relationship with Egypt that Israel made concessions, above all formal ones : one of the interests of the document is to recall that the permanent frontier of Egypt is that of old Palestine, even if Israel received substantial advantages in return (the creation of security zones on Egyptian territory, transit by the Canal and free circulation on the territorial waters, the opening of relations, diplomatic, consular, economic, commercial, cultural, postal, aerial, etc... between the two countries ; see especially annex III). It would be nevertheless tactless not to take into consideration in this instrument, the elements, which are the fruit of more or less formal concessions torn from the Israeli delegation, and which helped in the evolution of the manner in which the Palestinian question was traditionally put. It can be considered of course that to obtain the freeing of its entire national territory, Egypt had to consent to extremely heavy concessions, particularly in accepting the creation of the security zones A, B and C in which Cairo's freedom of movement would be exceptionally limited, the armed forces not being able to exceed 22.000 men in the first, 4.000 in the second and only the civilian police forces as well as, should the occasion arise, the United Nations' forces, would be able to be disposed in the third. When we know that the three zones cover the whole of Sinai, and that zone C runs along the whole length of the Gulf of Akaba down to Sharm-el-Sheikh included, we can measure the full significance of the restrictions imposed by the agreements on Egypt, and even moreso in that this device, accompanied by aerial and naval measures, is put into place for an undetermined length of time.

Some will not fail, however, to add that the Israeli concessions had been real, the Governors of this country having often before affirmed that Israel would "never" leave Sharm-el-Sheikh, nor abandon the airports of Sinai, etc... ; to specify again that the Egyptian concessions were not without a counterpart, at least a formal one, as in the zone D,

situated to the east of the international frontier, on Israeli territory for the most part (and at Gaza for a smaller part), a zone which, it is true, is greatly reduced in comparison to the previous ones, the Israeli armed forces will be themselves reduced, not being able to exceed 4.000 men (one will note only in this respect that no more than in the past, Israel, in spite of being unofficially anxious to own sure and acknowledged frontiers does not consider the quartering of United Nations forces on its own territory). It is finally undeniable that numerous peace engagements have after all, involved this type of dispositions, moreover, if in numerous cases the peace treaties have been imposed on the vanquished by the vanquisher, it is impossible to consider that such was the case under the circumstances.

However that may be, Egypt engaged itself here by use of it's sovereignty. The international law has for a long time rejected all absolutist conceptions of sovereignty, and as Georges Scelle has shown by example, sovereignty can be exercised also by limiting for the future its' freedom of action. It is thus clear that Egypt and Israel can make use of their right to sovereignty. What they cannot do without violating the international law, is to fail to appreciate the rights of a third-party evidently this is the whole question of the rights of the Palestinians, lengthily studied above.

C – There is a last point over which the Camp David accords and the subsequent Treaty raise difficulties. It concerns agreements whose real bringing into effect is impossible without the participation of third-parties who are not at the moment parties to the agreements : Jordan and the representatives of the Palestinian people are integrated without previous consultation, into a process elaborated by the United States, Egypt and Israel. The United Nations themselves are implicated by the dispositions concerning the quartering of the United Nations forces. The Camp David accords and the subsequent Treaty should thus be interpreted in the light of the general rule of the relativity of treaties set forth by article 34 of the Vienna Convention of May 29th 1969 :

"A treaty does not create either obligations nor rights for a third-party State without its consent"

In a number of their dispositions, they constitute a real stipulation for others, who could stake only with the agreement of the other interested parties, that which all the same does not in the least forbid the positive law, which now remains impossible in circumstances of the kind.

PART I

BROADENING THE ANALYSIS : FACTS AND REALITIES IN THE MIDDLE EAST.

A. THE STATUS OF THE PALESTINIAN PEOPLE AND THE QUESTION OF HUMAN RIGHTS IN THE OCCUPIED TERRITORIES (Messrs. SOURANI, EL MALIKI, Ms. F. LANGER, Mr. NAKKARAH)

B. THE SITUATION IN SOUTH LEBANON (Mr. J.P. COLIN)

C. THE MILITARY PRESENCE OF THE UNITED STATES IN THE AREA (Mr. JOE NORDMANN)

A. THE STATUS OF THE PALESTINIAN PEOPLE AND THE HUMAN RIGHTS QUESTION IN THE OCCUPIED TERRITORIES.

Mr. JAMAL EL SOURANI
General Secretary of the Union of Palestinian Lawyers

The violations of international law did not only begin with the Camp David Accords and the Peace Treaty signed between Egypt and Israel in Washington. In reality we are living this situation ever since the Sykes-Picot Accords in 1916 between France and England ; it continued with the Balfour Declaration, the partition plan and the Resolution 242 of the Security Council in 1979.

During all this time the Palestinian people were denied the right to self-determination. The attitude which was adopted towards it resembles astonishingly that of the imperialist powers throughout the XVIIIth and XIXth centuries when, seated around a table they decided as to the future of the colonies over which they ruled at the time. The Palestinian people are the only people in the whole world who have been denied self-determination. Even our status is more inferior than our brothers in South Africa, Zimbabwe and Namibia. Our brothers there are still living on their land, but we are a whole nation driven out of our native land, roaming now for 31 years without a national identity. We have no identity, I myself have no identity ; I have not even a grave in which to be buried ; that is the Palestinian peoples' situation.

If we go back in time, we find the reason for what is going on. Is it a question of law and justice ? Is it a question of international law ? Is it a lack of international law, a lack of world organization ? There was first the League of Nations, now there is the United Nations Organization. It is not a lack of international organizations, nor a lack of international law, because what happened in our country was an act of force, the demonstration of a policy of force. If there had been no British mandate in our land and no Balfour declaration, no Jews would have entered our land and we would have lived in peace as we have lived in peace for centuries – Moslems, Christians and Jews.

We never used discrimination in our land, we always lived as brothers and we are proud that this small country, Palestine, gives the world its religions – Christianity, Judaism and Islam. And these three religions co-existed for fourteen centuries until we were invaded by the Zionist movement. The tragedy began from then on, a tragedy not only for Palestinians and Moslems and Christians but the tragedy for the world's Jews also. Zionism, in fact, is not only the enemy of the Arabs, Christians and Moslems, it is the enemy of the Jews themselves ; it is uprooting the Jews from where they are living for centuries and centuries. Our land never used discrimination. Europe practised discrimination against the Jews, but never did our land. On the contrary, whenever the Jews were discriminated against, they found asylum in Palestine and in the rest of the Arab world.

But this Zionist aggression which we are opposing and will continue to oppose, and will continue to struggle against, means racialism, aggression and expansionism. That began with the National Jewish Home of the Balfour Declaration. They spoiled a part of Palestine according to the first British partition plan in 1937, a bigger part in 1947, according to the United Nations' Partition Plan ; all the de-militarized zones were occupied and then all of Palestine, parts of Syria, parts of Egypt and now a part of Lebanon. Aggression, expansionism and racialism – a strictly Jewish State. This is the dilemma which we are faced with for the last thirty years..

But let us study Zionism more closely. In order to create a State one needs a territory, a people and a government, only then can a State be created and put into practice. But what did Zionism do ? They began at their Congress in 1897, by forming a government, then they turned the pyramid upside down : first the government, then the people and afterwards the land.

Even today, after thirty years of existence, the Zionist State does not possess either a well-defined border or well-defined people. Who are the Israelis ? Nobody knows. Are they the three million who are already there or the fifteen million whom they are trying to bring there ? Thus, no real population figure. No real borders. Nevertheless it is called a State, and a State being a member of the United Nations.

However, if there was no British mandate, if there was not this American backing from "the loaf to the rocket" could the Israelis in fact survive ? Israel with its three million inhabitants has more tanks at its base than India which has six hundred million, than China which has one thousand million, than most of the Atlantic states. Why all of this ? From where ? From the wealth of Palestine ? We know that Palestine is a very poor country. And for it the Zionist State is a vast military base for American Imperialism. The individual in Israel receives from the American project more than the American individual in America.

Why is America so generous in giving Israel all this ? The settlements which my dear Felicia was speaking about minutes ago, from

where are they financed ? They are financed from America. The bombing of Lebanon – from where are the bombs coming ? The planes, the tanks – from America. Why are the Americans doing this ? The fact is that this is for the help and for the defence of the interests of the United States in the region. This strategic region which is very sensitive and touches world security as a whole and the security of any individual state on this globe.

Israel is the only State also which was formed by a United Nations resolution, and Israel is the only State which never abided by any resolution of the United Nations, from the Partition Plan to the last resolutions, consecutively throughout the last thirty years.

Ladies and Gentlemen – according to these accords and according to the declarations of the Israeli leaders – no withdrawal, no stopping of colonization, no State. Autonomy ? Even this autonomy does not allow the people of the Gaza Strip and the Western Bank to administrate the water-wells. They have to ask permission to drink and how much to drink. Even the water – this autonomy does not give the people the right to tackle the question of water, and they call it "autonomy" ! And now we ask ourselves a question : in fact, are we near to peace now ? Is peace coming closer after this Treaty ? Or are we getting farther and farther from it ? I want to make just two points :

1. The Americans, the United States of America, the real head of the Palestinian people and humanity, is now preparing for a fifth fleet, there is a sixth fleet in the Mediterranean, a seventh in the Pacific – now they are preparing for a fifth in the Gulf area where the petrol is. The fifth fleet, and they are preparing a contingent or more to occupy the petrol sources, and we remember what happened in the 1973 October war when the petrol was cut for a short time, and what if America really occupied the petrol sources – what tragedy the world will face !

2. I want also to ask a question. Israeli movement began by saying they wanted to solve their Jewish problem.

The Jewish problem reached its climax during the Nazi regime. We never committed any crime against the Jews, as I have said, whereas all the crimes committed against them were by the Nazis. But who is to pay for the crimes against the Jews ? It is the Palestinian people. But did the Jewish State of Israel – the Zionist State – solve their Jewish problem or is there really a Jewish problem ?

At the moment in Israel, there are three million Jews, and the Jews number fifteen million : one-fifth of the Jewish people, Jewish population, Jewish sect are living in Israel. What about the other twelve million ? They want to bring them in and we know the pressure they are exerting against the Soviet Union, where there are more Jews who could be made to emigrate. If they want to bring the twelve million into the country, what can this mean ? Jewish immigration into Palestine means more war – more refugees – more bloodshed. This is why we are against Zionism. We are not against the Jews. Zionism is the issue of Imperialism and Israel is the issue of Zionism. If there was no Imperialism, there

would have been no Zionism and if there was no Zionism, there would have been no Israel. So this Zionist entity, in fact, is an Imperialist entity and serving the interests of world imperialism, led by the U.S.A.

They are saying now that there is a law allowing the Israelis to buy lands in Gaza and the Western Bank. In fact it is a joke. It is not a law, it is a joke ! During the Ottoman reign and during the British Mandate, all that the Jews owned in Palestine was 6.5% of the total area of Palestine while the Arabs owned 93.5%. We did not sell the land but they reserved the land, as they have reserved the Jordan – the Syrians did not sell the Jordan –, as they have reserved Sinai ; and the Egyptians did not sell Sinai. When they speak about peace, it means "a piece of land" and not the peace that the world wants. They are looking for more land, more land without people, to bring in foreigners to settle in their place.

So it is not a problem if they allow or if they do not allow the Israelis to buy because, they have reserved up till now from the Western Bank alone 1.5 million dunams, that means 1,500 square kilometers and we know that the Western Bank has only about 5 million dunams ; this means about one third of the Western Bank is now reserved, apart from what they have reserved in Gaza, what they have reserved in Jordan, what they have reserved in Sinai ; and still they are there, and will we see them leave the Sinai after 3 years or not ?

They say also that a Palestinian State endangers the security of the region. Is this really true ? If a small, poor, Palestinian State was formed is it really a danger to the security of the region ? O.K., let us see. What about the Gaza Strip ? It is 300 square kilometers in area and 500 thousand people live there. If they died suddenly, the State does not have enough graves for their 1/2 million people.

The inhabitants of the Western Bank and Gaza do not only represent the normal population of these area ; more than two-thirds of them are refugees.

I myself have been a refugee twice. In 1948 I was living in Jerusalem from where I was expelled. I moved to Gaza from where I was more expelled. I am now living as a refugee in the Arab country. I lived in Egypt but was expelled to Damascus, and I do not know where the third place will be if the situation arises.

Is this poor small state really a danger to peace ? No, it is not, but it is a danger to the Zionist philosophy. Because they are living on a myth that their land rights lie between the Nile and the Euphrates, and if we continue with this philosophy it means that the peoples of the whole world should change places. The Russians should leave Russia, the French should leave France, the Germans should leave Germany and the Americans should leave America because most of the people of the world were not where they are today during biblical times.

But what I want to say is this ; not only will Israel continue to be a hinderance to peace, it will accept peace only under one condition – that is to subdue the whole region, from the Gulf to the Atlantic (as we say) and to reign there as master making of the entire Arab world its first

vassal State. For Israel will accept to make peace only if it can rule like a feudal lord ; it would be the Israeli peace and not the just peace spoken about in the United Nations Charter, the Geneva Convention, the Human Rights Declaration. Not that peace but Israeli peace, Zionist peace, Begin peace.

Begin comes from Poland, has the right to self-determination in Palestine and the other Palestinians do not have the right to self-determination. This is Zionism, racism, aggression and expansion – that is why we are against it.

So, our problem is not the problem of international law, it is not the problem of justice. Everything is clear, we are victims of an imperialist Zionist entity backed by world imperialism, led by the U.S.A. This is the real Palestinian problem.

Even this suggested small Palestinian State could only solve (it is not certain that it could succeed) the problem of one third of the Palestinian people – but there still remains the other two thirds. Peace can never come about unless the Palestinian people are repatriated. It is absolutely necessary that they return to their native land, if not we will continue to be the negroes of the world.

But we are not ready to remain as the negroes of the area for the rest of the world.

We will continue our stuggle, our just struggle, and now we are being recognised by the United Nations, by the Non-Aligned Governments, by the Islamic Conference, by the Organization of African Unity, even here in Western Europe, though we are not openly or formally recognised by the Western Governments, they accept us as such, and I am sure that it will not take a long time before we are openly, clearly and formally recognised by the Western Countries, because they are beginning to notice the atrocities, that the world peace is at stake, and who is putting the world's peace at stake. Is it Africa, Asia, Western Europe, Eastern Europe, South America, the angels ? Satan ? Non, it is the obstinacy of Israel backed by the world's imperialist power of the U.S.A.

All the world is asking for peace, all the world is rushing towards peace, all of those allusions from world parties are all asking for peace, but America and Israel are against peace. They do not want peace, they want to subdue the area. They want to come there to the area to exploit it, to take its petrol, to steal its people, to make the area a market for themselves – to exploit the neighbouring areas, this is what they want, but they will not have all that they want. They could not defend their puppet state in Ethiopia, nor in Iran and they will not defend their next puppets in the area, Sadat or anybody else. They will have to go, they will not stay, but what we are asking in fact, is not only that our case, our problem, our cause be backed by the international law, by justice, we are looking in fact for more backing from all organizations, lawyers, all freedom lovers of the world to give us a small hand materially and non-materially to continue our struggle, so that no one will come here and say that the Christians amd Moslems are fighting in Lebanon.

It is not a fight between Christians and Moslems – Saad Haddad is an Israeli contingent. Without the Israeli bomb and fire, Saad Haddad would not be there. Those Moslems are living with the Christians even in the Western Sector of Beirut. The Jews, Christians and Moslems, are living together even with the American Embassy. This is natural for them ; what is not natural, is what is happening today in South Lebanon.

The Saad Haddad contingent serves the Israeli interests, for the Israelis covet the water from Southern Lebanon. They want to reserve Southern Lebanon in order to take its water sources as well as those which Sadat generously agrees to give them for the irrigation of the Negev. Because Sadat, who cannot find enough water to irrigate Egypt is willing to give some to Israel to irrigate the Negev.

Sorry, maybe I have taken too long – but the last word I wish to say is that America agreed and accepted in 1947 the "Declaration of an Arab State", and now it denies what it said and accepted in 1947.

According to the P.L.O., I say this, the P.L.O. is the sole representative of the Palestinians.

We are against the Camp David Agreements, we are against the Peace Treaty because it infringes on our rights. Our people inside are against it, only the P.L.O. represents and speaks in the name of the Palestinians. Sadat has no right to speak in their name, so, Arabia, Algiers, Libya and all the Arab States have no right to speak in the name of the Palestinians. The only body who can speak for the Palestinians is P.L.O., not any other Arab State. Experience has taught everybody that the Palestinians decision is far stronger than the Arab's decision. We alone represent the Palestinian people, the P.L.O., not Sadat and all that he does ; not only does he hinder peace, he is now in fact, an ally to this Zionist entity against our brothers in Zimbabwe and South Africa, because the relation between South Africa, Zimbabwe and Israel is not hidden – it is very clear that they have very tight relations – even as far as planning the Atomic Bomb ! They are bringing the Atomic Bomb to the Near East and to Africa, when Israel and Sadat, and I do not say Egypt, because I know that Sadat does not speak in the name of Egypt ; he is president of Egypt, but he does not in fact express the will of the Egyptian people – when Sadat and Israel are now friends, this means that he is the friend of South Africa and the friend of Rhodesia. From here comes also the infringement of their rights and the struggle of our brothers in South Africa and Namibia ; and by the way there is a resolution of O.A.U. in 1975 which says the following : "The Palestinian problem is not only an Arab problem, it is an African problem like the problem of South Africa, Namibia and Zimbabwe". The Namibian and Zimbabwe and South African problem are not only African problems but they are Arab problems like the problem of Palestine.

Mr. SHIBIB EL MALIKI
Secretary General of the Union of Arab Jurists

THE CONDITIONS OF THE PALESTINIAN PEOPLE AND THE ZIONIST OCCUPATION

(A research prepared by the Union of Arab Jurists)

The Zionist entity has committed a series of persecuting and discriminating actions against the Palestinians in the occupied Territory, in all political, educational, economic and social fields, which have violated Human Rights provided in the Geneva Convenants and in the Universal Declaration on Human Rights.

We mention here some of the most important of these actions.

1. The continuous containment policy of occupied Territories, politically and economically exploiting the human and material energies for Zionism's interest.
2. Continuous ideological and educational persecution in the Occupied Territories.
3. Violations of Human Rights in the Occupied Territories.
4. Forbidding the Palestinian people to exercise their right to repatriation and self-determination.

EDUCATION IN OCCUPIED TERRITORIES

The policy of containment of the Arab minority in the Occupied Territories, combined with efforts to keep the Arabs at the bottom of the social scale, so as to encourage them to emigrate, has been furthered by limitations on the education available in the Arab sector. Education among the Arabs in the Occupied Territories is discouraged in every possible way. Though living in the same country, Arabs and Jews do not have the same educational facilities. Arab education is very much inferior in physical facilities, in the training of teachers and in the funds available, leaving aside the content of the curriculum. Higher education is restricted

in a number of ways. Knowledge of Hebrew is essential, but even if this condition is met with, the university authorities can restrict the number of Arab students by not granting them exemption from the tuition fees. But even if the Arab student surmounts all these hurdles and obtains a university degree, he discovers that his degree is worthless because it cannot secure him a position.

The Occupation Authorities have designed a deliberate plan for education and teaching, including all aspects of the cultural and ideological life of the Occupied Territories.

1. The Curriculum :

Aiming to mislead the younger generation of the Occupied Territories, the Occupation Authorities have possessed all matters related to education and teaching such as the curriculums, schools, teachers and students. As far as the curriculums are concerned the Authorities have abolished Arabic curriculums in Jerusalem and imposed new curriculums according to their Jewish policy, as these new curriculums contained many explanations of Jewish history, instead of Arabic curriculums.

The names of regions, cities and villages of the Western Bank have been changed from Arabic to Hebrew. It is known that the Occupation Authorities have forbidden 81 books from circulation and have issued military orders to the Arabic schools to stop using any foreign or Arabic Atlases or maps, referring to Palestine borders before 1967 and not containing maps of annexation of Jerusalem, Western Bank, Gaza Strip and Golan to the state of occupation. The Occupation Authorities have omitted those chapters dealing with the Palestinian case from the books, and have changed the word "Palestine "to "Israel". As far as the Islamic religious books are concerned the Occupation Authorities have omitted all verses of Koran encouraging struggle and sacrifice.

2. Teachers :

The Zionist Authorities have prevented Arab teachers from establishing their own union and have fired several of them, an act which forced them to look for jobs outside of their regions, the goal which the Zionist Authorities have sought. They have also arrested a large number of Arab teachers and have handicapped the satisfying of the Arab schools' need for teachers.

3. Educational Institutes :

The Occupation Authorities have fought educational organizations and those who are in charge of them, aiming to prevent them from playing their national and educational role, and while schools' needs for more classrooms were denied, the Authorities arrested three members of the board of one of the universities and exiled several others.

The Occupation Authorities have detained hundreds of students and many of them have been tried by military courts.

THE POLICY OF UNITING THE ECONOMY OF OCCUPIED TERRITORIES WITH THE ZIONIST ENTITY AND THE CONDITIONS OF WORKERS IN OCCUPIED TERRITORIES :

The population of the Occupied Territories was about 1,099,900 at the end of 1976. Working manpower or manpower at the age of work in the same period amounted to 602,500, equal to 54, 8% of the whole population, while the total number of wage workers was 205,700, equal to nearly 35% of the whole working manpower.

The Zionist Occupation Authorities have worked to unify the different aspects of life in the Occupied Territories with the Zionist entity, in harmony with their policy of annexation, unification and continuous exploitation of the Occupied Territories, which has moved under the cover of development and advancement.

According to this policy, a committee of general directors for the affairs of the Occupied Territories recommended the adoption of the administrative and Egyptian Laws.

In the economic field, the Occupation Authorities practice the policy of tying and subjecting the economy of the Occupied Territories to the economy of the Zionist entity. This economic policy, of an imperialistic nature has meant direct and indirect exploitation of cheap working manpower, , controlling the local markets and turning the Occupied Territories into consuming markets for the Zionist's goods.

It is worth mentioning that the Zionist Authorities have endeavored to direct the products of the Occupied Territories especially agricultural products, to serve their own interests. In this regard the agricultural departments have played a big role in persuading Arab peasants to grow the appropriate plants for the needs of the Zionist entity's markets.

THE RIGHT OF RETURN AND SELF-DETERMINATION

The Zionist Occupation Authorities, since the beginning of the Occupation have pursued a policy contradicting the simplest human rights, guaranteed by international documents and national constitutions, all over the World. This policy has been based on depriving the Palestinian of the right to live in his homeland, forcing him to leave his country and live abroad and denying his right to return and self-determination.

Since 1948 nearly one million Palestinians were expelled from their homeland by terror, slaughtering and violence and in 1967, another stage of expulsion was performed, at the end of the June 1967 war, when 400,000 Palestinians migrated from their homeland crossing the borders to live outside.

In 1969 the United Nations voted in favour of recognizing the fundamental rights of the Palestinian people (by a two thirds majority of those present). In 1970 the General Assembly clearly defined those rights as being the rights to equality and self-determination in agreement with the United Nations Charter. This was also confirmed in 1971 and 1972.

In 1973 the United Nations adopted a resolution confirming the right of all the peoples subjected to colonialist rule or foreign domination, to self-determination, independence and freedom. It also recognized the legitimate character of the struggle of those peoples to achieve their aspirations, including the right to use force for that purpose.

In October 1974 the United Nations adopted a resolution to the effect that the P.L.O. was the representative of the Palestinian People (105 for and 4 against). Thus the P.L.O. became entitled to participate in any debate concerning the Palestinian issue at the United Nations level.

On 10th November 1975, the United Nations expressed their deep concern because no progress was achieved in enabling the Palestinian People to practice their rights in Palestine, in the same manner as the General Assembly's action of 1974.

At the same time, the General Assembly decided to form a Committee for the Unalienable Rights of the Palestinian People and asked the committee to submit recommendations within six months to the Security Council, for consideration.

In addition to this, the Assembly requested the Security Council to adopt the necessary measures to enable the Palestinian People to practice their "Unalienable National Rights". These rights which were reassured by the General Assembly on 22nd November 1974 are:

1. The right to self-determination without any outside interference.
2. Right to independence and national sovereignty.

The United Nations committee for the Unalienable Rights of the Palestinian People issued, at the end of 1976, recommendations for consideration by the Security Council. The Committee stated that the Palestinian people is "the heart of the Middle East Problem" and it reaffirmed its belief that no solution whatsoever could be imagined without fully taking into consideration the legitimate aspirations of the Palestinian People.

The Committee stated that the participation of the Palestine Liberation Organization (PLO) in any negotiations or conferences held under the auspices of the United Nations, on equal footing with other parties, is indispensable.

THE RIGHT OF REPATRIATION : –

The recommendations of the Committee included a two-stage plan for the Palestinians' return to their homeland, and a timetable for the withdrawal of the Israeli forces from Occupied Territories with June 1st 1977, as a deadline.

The Committee advised that the Security Council should im-

mediately enforce its resolution No. 237 (1967) which demanded that Israel facilitates the repatriation of those Palestinians who left their homes in the fighting areas of Palestine, and be responsible for their safety and well-being.

The United Nations General Assembly is still adopting resolutions with an overwhelming majority in favour of the Palestinian peoples' rights to self-determination, independence and national sovereignty. These resolutions are not merely recommendations, but they are complementary to the United Nations Charter and are therefore an undividable part of modern international law. They constitute an interpretation of the U.N. Charter, as well as a legal precedent of some significance in the development of international law.

THE CAMP DAVID AGREEMENTS :

The Camp David Agreements ignored the Palestinian people's issue which is the cause of the Arab regions' problem; that is :

1. The Agreements did not include any recognition of the Arab Palestinian people's right to self-determination though there is a paragraph concerning the West Bank and Gaza, and a process leading to self-government after a five year transitory period, a vote by the inhabitants being organized during that period. In reality, Israel insisted on not recognizing the existence of the Palestinian People.

B) The Agreements did not mention the withdrawal of the Israeli forces from the West Bank, Gaza or Jerusalem, while according to the statements of the Israeli officials, these forces are to be maintained also during the transitory period as well as after it. Therefore the elections will take place according to the Occupation Authorities' choice and control.

C) The Agreements did not mention the representatives of the Palestinian people – the Palestine Liberation Organization (PLO) which was unanimously recognized by the Arab Summit, by the masses of Arab People in Occupied Territories during the municipal elections, and by the United Nations General Assembly, as being the only legitimate representative of the Palestinian people.

In the P.L.O.'s absence neither Egypt nor any other State has the right to enforce any issue of the agreements concerning the West Bank and Gaza. In doing so, they violate the principle of the right to self-determination which must be respected.

D) There is no reference made in the Agreements to the abolishing of the Israeli settlements established in the West Bank during or after the five years transitory period: in the meantime, the Israeli authorities are continually building new settlements.

E) These Agreements do not include the destiny of Jerusalem; the Israeli officials, before and after the Camp David negotiations, refer to the whole city of Jerusalem as continuing to be the Capital of Israel.

FELICIA LANGER

Dear Mr. President
Dear Colleagues

The festival of the so-called Peace Treaty is still going on.

Those who are not taking part in this festival, the Palestinians, whose very existence was put as a price for it, displaced and homeless, are in the midst of the battle for survival. Now, they have become victims of the sell-out of their cause, of a conspiracy to perpetuate the Israel occupation, to sanction their exile under the auspices of an administrative attorney autonomy. Because they have comprehended the true nature of this plan, they are rejecting it with an outspoken unanimity. Many paid for it with prison and tortures and I, personally, can testify these facts. The key point of this peace agreement is the lack of the concept of self-determination. I am quoting a part of the text from the statement, delivered by the Senator James Haveress of South Dakota, on the floor of the United States Senate, as follows :

"So, Mr. President, (President Carter)

The dreaded hour has finally arrived the separate peace treaty between Egypt and Israel, which President Sadat swore would not come from him, and for which Israel has hoped for so long a time, has come. It is a revival of the Begin plan of last November which was rejected offhand by President Sadat. It is the exchange of a great deal of sand in Sinai, for the elimination of Egypt, as any kind of participation in the negotiations. It is the realization of the expansionist dreams of Israel. Now, with the inclusion of President Carter, what was reprehensible last year, has now become a great victory. The continued denial of self-determination to the Palestinians is giving a sheen and a gloss designed to cover over what it really is, an Israeli occupation under a different name, but at this time with a puppet government to make legal what was previously illegal."

But for the knowledge of President Carter, we have to underline that neither the deceptive propaganda about the so-called Peace Treaty

nor the institutionalised terror of the Israeli occupiers did create even one such Quisling. Moreover the heroic struggle against occupations is continuing, reaching from time to time a stage of a similar rebellion. As for the U.S. citizens, I had the honour to campaign a week ago, in Washington D.C. with black American leaders for the human rights of the Palestinian People and its right to self-determination. The nature and the substance of the right of self-determination was reviewed by numerous experts of International Law. One of them, Brownly is reviewing it as follows :

The practice of the United Nations has established this principle as a part of the law of the United Nations. In resolution 637A of the 16 December 1952, The General Assembly recommended, inter-alia, the states members of the United Nations to uphold the principle of self-determination of all peoples and nations. Most important is the declaration on the granting of independence to colonial countries and peoples adopted by the General Assembly in 1960 and referred to in a series of resolutions concerning specific territories, since then. The declaration regards the principle of self-determination as a part of the obligations stemming from the Charter and is not a recommendation, but is in the form of an authoritative interpretation of the Charter. Nowadays the right to self-determination is both a customary and general principle of international law recognised by the world community and it constitutes one of the peremtory rules of the general laws. The Israeli rulers reject vehemently and totally that right regarding the Palestinian people. They are following both in words and in actions the principle, that never will there be a Palestinian State even at the price of thousands of innocent Palestinian lives and the blood of their own people. According to the official Israeli definition, the autonomy has to be for the inhabitants only but not for the lands, as the Mokhtar of Anatah said to the military governor, "You want to turn us into an hotel guest, in our own homes and on our own land."

So, such an "autonomy" is a sensational invention in the history of the International Law, a special Zionist contribution to it.

The Palestinians will be granted much less than the Bantustans, surrounded by Jewish settlements constantly growing in number. President Carter said during his visit to Israel, that Sadat feels that Israel will not fulfill its obligation concerning the autonomy after Ariel Sharon announced that Israel will settle in Judea (in Samaria, as it is called now) maybe a million, maybe two millions, let us scrutinize this issue." Article 49 of the Fourth Geneva Convention prohibits an occupying power from of the Fourth Geneva Convention prohibits and occupying power from transferring parts of its civilian population into an occupied territory. Israel is daily violating this article, starting from the first days of the occupation, the first official government initiative, came in June 67 when some hundred and sixty Arab houses adjoining the western wall in the old city of Jerusalem were demolished in order to open a plaza in front of the wall. Soon after the rest of the adjacent Jewish quarters were

expropriated. Some six thousand five hundred Arabs, both tenants and land owners were removed from some sixty hundred buildings over the next several years.

Most of the houses were demolished and new ones built in the places for the new Israeli residents. During the past years Jerusalem was encircled by a ring of Jewish settlements and now there are about six thousand Jewish residents living there. On the western banks three villages in the Latroun area, Amwas, Yallu and Beyth Nuba were destroyed and their inhabitants forced to leave in June 67 just after the end of the war. The lands are now incorporated into Canada Park which covers four thousand two hundred *dunams* and the Mevoh Horon settlement. Tourist and Israeli people visiting the beautiful Canada Park do not know that the roses there are growing on the grave of somebody's house and that three flourishing villages were situated there only twelve years ago. The guides are explaining to the visitors that in this place there were settlements in the ancient biblical times. Israeli authorities confiscated more than a million and a half *dunams* on the West Bank and are proceeding with this policy day by day. Many more than a hundred new settlements were established in the West Bank, Gaza Strip and Golan Heights. At the very moment new settlements are established under the auspices of the Peace Treaty with Egypt, while existing ones are considerably enlarged by seizures ; confiscation of Arab lands in Anabtah for Maaleh Adomimb and in Salfip for Ariel, in Naalin for Matatiahu and Beitlehem for Efrat and close to sixteen hundred thousand *dunams* in the Dib Estia and Genine for the Israeli units which will be withdrawn from Sinai. The Gouch Emounim is acting an order to surround the Arab villages and towns by a ring of Jewish settlements in the West Bank and in the Gaza Strip and in the Golan Heights.

In liaison with this policy there is a decision to establish a new municipal and administrative unit of all the settlements. Three such units were recently established under a pure Israeli juridiction which means practically to annex the territories on which the settlements are situated, to Israel. One third of the West Bank land was confiscated until now, where there are new orders of confiscations ready for execution, issued recently. So one can easily imagine the vast annexed territories under the cover of autonomy. In September-October 1977 there was a hearing of the Committee on the International Relations of the U.S. House of Representatives in Washington D.C. on the Israeli settlements in the occupied territories. Many aspects of these settlements were reviewed by the witnesses, some of them known as Zionists who defended the policy of the colonization, while Mr. Alfred Atherthon denounced it in a very mild language knowing that Israel could never keep the terrritories and settle them without the massive economic, military and financial assistance from the U.S. government.

One of the other witnesses, Dr. Paul Quiring, Programme Director for the West Bank Manonite Central Committee, a relief and development agency, testified about the settling policy and practice of the Israeli

authorities, emphazising the dangerous infringement of the water rights of the local population by the settlers. He said, "that increasingly, West Bankers recognised settlements as the most threatening consequence of the occupation whereas the occupation intend to govern the settlements, seek to transform, regardless of their location, size or stated purpose." West Bankers regard such settlements as little more than the euphemism for the theft of their land and political future. Under such circumstances West Bankers see themselves in a battle for survival. The battle begins in the fields and in the springs and the wells of the West Bank, economically threatened by the loss of farmlands and water, villagers must decide whether to stay and endure, or leave. The older ones, those who have endured, respond by saying, "For us, we will survive, but for our children, where is the future ? " The settlements are also a spring board for provocation and assaults on the Palestinians. The settlers are claiming their right to deal with the Arabs themselves, having enough arms for it. A bulldozer became their trademark. Journalist, Uri Dunn from Ma'ariv visited one of the settlements and he heard from a settler, I'm quoting, "I believe in a bulldozer more than I believe in Begin. To us the noise of the bulldozers and other heavy machinery in Samaria is like a sweet music."

Now to mark the first anniversary of the Camp David framework Agreement encouraged by the shameful approval by silence of President Sadat, its accomplice in the wrong done to the Palestinians, the Israeli government is permitting Israeli citizens to purchase Arab land, in addition to what it is seizing and confiscating itself. So there has to be a transition period for the Palestinians as for an invalid or retarded people, incapable to cope with their problems by themselves, or to establish any political framework on their own on their homeland. After this period, such demographic and physical changes will take place in the occupied territories, such new realities will emerge that the establishment of a Palestinian State will be impossible. So, as many are saying now there is an Israeili Jewish autonomy in the West Bank called Judea and Samaria, while the word "West Bank" is treated now, even in the cause, as a bad word. The Israeli settlers there called by Begin "The Glory of Israel", are following the heavenly law, turning their opinions into this . A glimpse of their attitude is in the following passage from Daver newspaper by Danny Rubenstein : "Like many other settlements of Gouch Emounim, Ofrah, and Siloah are also what are called community settlements. In spite of all the explanations, I still find it difficult to understand what new kind of community settlement of Gouch Emounim, it really is. But the fact is that Ofrah is a very successful settlement and its only problem is like the problem of the other settlements, a lack of more land for developing. The secretary of Ofrah explains it very simply. "The lands around belong to Arabs", he stops as if caught making a mistake and asks : "What does it mean, they belong to Arabs ? " A rhetorical question which he also answers : "The whole of Arab Israel belongs to the people of Israel but, there are Arabs who dwell here, and cultivate the

land." His suggestion is to give the lands around the settlements to the settlement, if they belong to absentee landlords, Arabs of course. The guardian of absentees, the military government, can give them to Ofrah according to the law, if they belong to the people living there, their lands should be confiscated."

And now Mr. Drobles, who is the Head of the Department for Rural Settlement issued a master plan for the development of settlement in Judea/Samaria, adopted by the World Zionist Organization. Please look at the map you have with you, and then you will be convinced where the autonomy can be placed. I think that only in the air, as in the Chagal paintings. So Mr. Drobless is saying the following : "Settlement throughout the entire land of Israel is for security and by full right. A strip of settlements at strategic sites enhances both internal and external security alike, as well as solidifying and realizing our right to Arab Israel."

The implementation of this vicious plan will be by the Israeli army, the military government whose headquarters are planned to be shifted several kilometers away from the big towns as stated by the Israeli leaders for aesthetic reasons and propaganda considerations. The army there will divide towns in order to safeguard the security of Israel as stated in the Peace Treaty. In the name of this so-called security, there is constant violation of the human rights of the Palestinians : thousands in prison and tortured, thousands deported, twenty thousand demolished houses. Those Palestinians who are the cheap labour power are daily harassed and humiliated, while the work of the degraded Palestinian children is a source of enrichment for the Israeli capitalist and landowner.

The Israeli practices in the occupied territories are clearly contravening the commandments of the Hague and Geneva Conventions as well as the principles of the universal declaration of the rights of man. Some of the practices of collective punishments constitute great breaches of the Geneva Convention and according to the resolutions of the Nuremburg Trials, are regarded as war crimes. During these years the Israeli occupation became a synonym of oppression and the proposed "autonomy" is understood as a perpetuation of this ordeal for the Palestinian people, of sanctioning its sufferings, its exile. Therefore the opposition to this plan is so total, stemming from the vital interest of the entire Palestinian people in the occupied territories and evicted outside them, and the best sons of my people.

The Palestinians were never asked or consulted if they wanted the autonomy rule. In 1976 during the terrible bloodshed in Lebanon, in the municipal elections in the West Bank when they elected their representatives they said a flat "no" to the proposal of a civil administration and "yes" to the PLO, while the civil administration then was planned to be a sort of autonomy. This factor makes the framework agreement and the treaty equally meaningless in the light of article 34 of the Vienna Convention on the Law of Treaties, saying a treaty does not create either obligations or rights for such states without its consent. There we see not only the lack of consent, but a consensus to the

negative. As it is stated, the absence of the principle of the right of the self-determination of the Palestinian people makes the Treaty contradictory to the law of nations. In our case it is also a matter of basic human rights and even a matter of survival in front of all the plots and conspiracies against the very existence of the Palestinian People, as a people on their lands. Professor Sheriff Basiouni is formulating it as follows : "A basic postulate of collective self-determination is that of individual self-determination, that is the ability of the individual to possess the right of self-expression in order that their collective will may give rise to national self-determination. Thus the right to remain and to return to one's territory and to free exercise of one's civil liberties there-in is requisite to the exercise of the right to self-determination. It is within this context that the violations of the individual human rights of the Palestinians are now discussed. The forceful displacement of individuals from the territory to which they are linked and the denial of their return thereto is prohibited by international human rights law because, in part, it is the only means by which to ensure the collective right of national self-determination. As the right to self-determination is a collective political right – so the right to return can be expressed as an individual political right. That is the right of individual self-determination. The United Nations General Assembly adknowledges the inter-relationship between the right to return and the right to self-determination of the Palestinians in its various resolutions. One of the legal sources of the right to return is the Universal Declaration of Human Rights of the United Nations Assembly resolutions adopted unanimously in December 10, 48. More significant for the purpose is the study of article 13, ii. "Everybody has the right to leave any country including his own and to return to his country."

In many cases in which I, personally, appeared before the High Court of Justice in Israel, it was stated clearly that the Palestinians, even those who are refugees after June 67, had no right to return. In my recent case, where I defended Atef Bargouty, born in Cober, living there in 1966, who became a refugee in the wake of the occupation of his native town by the Israelis, the Court decided that, that man having his house, his wife and his children in Cober has not any vested right to return to his village. The authorities can let him do so only ex gratia while his status is as of every other foreigner and tourist asking to come to Israel. Under paragraph 3 of the Treaty it is stated that a permanent committee will be responsible for finalizing an agreement on the conditions of admission to the West Bank and Gaza, of persons displaced in 1967. Actually Israel's representatives in this committee would enjoy the right of veto. Needless to wonder, in the light of their attitude, what would be the fate of those asking to return. Moreover, the Treaty is illegal prima facia :

Because, according to the official interpretations and statements of the Israeli rulers, it intends to perpetuate the "status quo" which is the status of a beligerant occupation in a wake of aggression combined with

colonisation and annexation, condemned for years by the numerous resolutions of the United Nations.

The Treaty ignores too the original instruments of the international law and the decisions of the Islamic conference in Lahore of 24.2.79. and of October of the same year in Rabat which recognised the PLO as the only representative of the Palestinian people. Moreover, under the auspices of this Treaty, Israeli rulers are leading an officially declared war of extermination, genocide ! against a world-recognized organization, having the status of an observer in the United Nations – the Palestine Liberation Organization. In conclusion, the framework agreement and the Treaty are null and void as "contracdicting the norms of the international law according to the article 53 of the Vienna Convention of 1969. A true, just and lasting peace in accordance with the law of nations is possible, only on the basis of assuring the rights of the Palestinian people to self-determination, as the same right was already exercised by the Israeli people.

Peace and justice are possible, but only on the basis of reciprocity, which means a sovereign Palestinian State in the West Bank and Gaza alongside Israel and the right of the refugees to return to their homeland or to receive indemnities. Which means a peaceful co-existence of such a State – a Palestinian State with Israel. The jurists who have worded the framework agreement and the Treaty were serving their employers. They have done their best in finding an appealing juridical clause to this doubtful merchandise, in order to sell it successfully to the world as genuine peace. We jurists who are assembled here are called to expose the truth in our service to the cause of just peace and the rights of man which are indivisible.

Thank you.

Intervention by H.D. NAKKARAH
Secretary of the Association of Democratic Lawyers in Israel.

Dear Colleagues and Friends,

We wish first of all to extend our thanks to the International Association of Democratic Lawyers for inviting us to attend this symposium of specialists and prominent figures in the field of international law, with a view to analyse the Camp David framework agreements and the peace Treaty between Egypt and Israel and their consequences in connection with the right of peoples to self-determination and the relative effect of treaties.

We are coming from Israel, a country which is concerned in this symposium and we have right at the beginning to assert that these agreements neither achieved peace nor stability in the area, on the contrary, Israel escalated its aggressive military operations in land, air and sea against the Palestinian Arab People in their refugee camps in South and North Lebanon. Persecution and suppression in the occupied territories continue unabated. An unprecedented grabbing of Arab lands and the establishment of new settlements is the theme of the day.

The situation in the wake of these agreements is becoming more grave and serious, endangering peace not only in the region, but world peace as well.

When these agreements were concluded American, Egyptian and Israeli circles announced that a real, just and comprehensive peace is being inaugurated in the region but now we visualise after one year of Camp David Agreements and six months after the treaty, that peace was never more in danger than at present.

The Egyptian Government stabbed Arab Unity and solidarity and executed American imperialist plans with imprudence. It concluded a separate peace with Israel and clothed it with phrases of "Comprehensive peace" and "Self-rule" for the inhabitants of the West Bank and Gaza Strip neglecting and altogether disregarding the rights of millions of

Palestinian Arabs driven out of their homeland and dispersed all over the world.

It is a big lie to say that a comprehensive peace would be achieved. The Prime Minister of Israel, Menahem Begin, already before the Camp David Agreements and the Treaty of peace, and thereafter time and again declared and still declares that self rule is nothing but an administrative rule for the inhabitants, but the land is Israeli land. The Israeli Government announced time and again that Military forces could not be withdrawn from the occupied territories either during the five years of administrative rule or thereafter and that Jerusalem shall remain united and the eternal capital of Israel.

In spite of these official announcements, meetings and conferences at the highest and lower levels between Israel, Egypt and the U.S. continue to be held between Heads of States and committees to discuss the so-called self-rule. They are not bluffing anybody but themselves.

It is ridiculous enough that these negotiations are being held in the absence and behind the back of the Palestinian Arab People, the first and foremost concerned, who have the sole and inalienable right to self-determination.

We are in agreement with the analysis of the prominent and learned lawyers Monique Chemillier-Gendreau and Jean Pierre Colin concerning the Camp David Agreements and the right to self-determination for the Palestinian Arab People.

But we wish to point out that historically the Palestinian Arab People affirmed their right to self-determination through their heroic struggles, rebellions and revolts against British imperialism. Their sacrifices during 30 years entitled them to a recognition by the United Nations to self-determination and the establishment of a Palestinian Arab State in accordance with the partition resolution of 29th, November 1947.

This resolution, recognizing self-determination by the United Nations Organization, is an act of International Law, binding and enforcable.

The fact that Israel occupied about six thousand square kilometers of the area of the Palestinian Arab State and annexed it to the area of Israel, and the fact that Transjordan annexed the Western Bank to the Hashemite Kingdom of Jordan, and the fact that the Egyptian Government established an Egyptian administration in the Gaza Strip ; all these facts do not extinguish the right to self-determination of the Palestine Arab People.

The partition of Poland and its occupation several times in history did not obliterate the right to self-determination of the Polish People. The Polish People at last achieved their independence and established their State as strongly as ever. And so the Palestinian Arab People will achieve their independence and establish their State in their homeland.

We do not want to enter into the causes and the effects, but

Palestine at a certain stage of its history became the homeland of Arabs and Jews.

The United Nations Organization recognized the right of each to self-determination.

The Jewish People exercised their right and established their State. The Palestinian Arab People are entitled to exercise their right and establish their State.

We do not wish to discuss here the question of the Partition resolution, its effects and scope, nor the question of the Armistice Agreements of 1949 between Israel, Egypt, Syria, Lebanon and Jordan and their implications in accordance with International Law.

Let us leave all this and come to Israel's occupation of the West Bank and the Gaza Strip in 1967.

The question is, does this aggression by Israel give it new rights under the International Law in connection with the occupied territories ?

The reply is clear and known. Of course not. Even the Security Council resolution 242 with all its misgivings reaffirms the principle laid down in the Charter that no territories can be annexed as a result of an act of aggression or occupation.

Thus Israel was right from the beginning an aggressor and remains an aggressor. The fact that their occupation continues since 1967 does not change its nature nor the consequences, Israel should withdraw from the occupied territories and leave the Palestinians to decide for themselves.

The Palestinian Arab People obtained new international recognition for self-determination by different international authorized bodies, by the United Nations, the Non-Aligned Nations Organization, the African Unity and others.

Israel cannot continue to deny the inalienable right to self-determination for the Palestinian Arab People. Israel can, supported by American imperialism and conspiring with the Egyptian Government, put obstacles and delay the achievement of self-determination but all these manoeuvres are doomed to failure.

Neither the Camp David Agreements nor the Israeli-Egyptian Peace Treaty have in accordance with International Law any bearing, effect or enforcement on the rights of the Palestinian Arab People, who was not a party to these agreements and treaty.

The Palestinian Arab People, will, in spite of all difficulties, obstacles, conspiracies and manoeuvres, achieve their right to self-determination, establish their Independent State under the leadership of the Palestine Liberation Organization, the only and sole representative of the Palestinian Arab People.

Thank you.

THE SITUATION IN SOUTH LEBANON

Prof. J.P. COLIN
University of Reims

I would first like to state clearly that to my mind, there is, strictly speaking, no "South Lebanese question", but a "Lebanese question", and to outline as a basic data all the aspects of the Israeli aggression against Lebanon.

We have already referred to the occupation of South Lebanon under cover of Captain Haddad's forces, which are actually supported by Israel. But the permanent aggression of Israel against Lebanon takes on a number of forms : bombings in the South and the area which extends as far as to Saïda, including even the suburbs of Beirut, frequent violation of the Lebanese air-space, control over the Lebanese territorial waters, multiple violations of the Lebanese territorial waters and at last – a fact to be underlined – direct help to the Lebanese phalangists (right-wing Christian forces) in the shape of weapons delivered in the port of Jounieh.

Those facts show how diverse the aggression is ; one should probably also mention the action of the Israeli secret services, which obviously played a part in starting and developing of the Lebanese civil war. I insist on this four-fold or even five-fold Israeli aggression against Lebanon, so as to immediately emphasize the fact that Israeli attacks against Lebanon, far from focussing only against the Palestinians - P.L.O., Palestinian fighters, Palestinian refugees in Lebanon, – are undoubtedly directed against the Lebanese state as such.

To my meaning, it is possible to envision the following pattern : there exists, in filigree, a strategic, long-term, Zionist project aiming towards the destruction of Lebanon. This plan concurs with Israel's will to occupy South Lebanon and, as it has already been stressed, to make Israel sole beneficiary of the essential water supplies, in an area where water is precious : namely the Hasbani river, a tributary of the Jordan, and especially the Litani river, which flows in South Lebanon. But this plan certainly also expresses the will to destroy a multi-religious state

which, in a way, stands in that area as the *counter-model to Zionism*, the counter-model to the Zionist state : hasn't Lebanon stood to prove, year after year, as generations and centuries passed, the viability of a multi-religious state, where, as formerly in Palestine, Moslems, Christians and Jews used to live side by side ? This Israeli threat implies a joint study of the Palestinian problem and the Lebanese problem.

If we get down to details – since our goal here isn't to analyse zionism, but to analyse the situation such as it is today on the field – , it is possible to make a number of statements.

I have already recalled the mission assigned by the Security Council to the United Nations force in Lebanon (U.N.I.F.I.L.) : this mission consisted, after the Israeli aggression of March 1978 and the Israeli withdrawal, in restoring Lebanese sovereignty as far as the international border which used to divide Lebanon from Palestine. Clearly, this mission has not been fulfilled. Not only has it not been fulfilled, but during the month of August, the "Israeli-haddadian" forces have extended the zone they occupied.

In March 1978, Israel had occupied roughly 1100 sq. kilometers (685 sq. miles), almost 1/10th of Lebanon : the areas occupied by Israeli-haddadian forces before the month of August amounted to 800 sq. km (500 sq. miles), and, viewing the current map, it seems that about 50 sq. km (30 sq. miles) have been occupied again in August 1979. This situation is absurd : a short time before the Israeli-haddadian zone was extended, the Commander-in-Chief of the U.N.I.F.I.L., General Erskine, whose good faith, as I hasten to point out, is not to be doubted, his only liability being the scarcity of means put at his disposal, declared on the occasion of a press conference held at the headquarters of the Norwegian contingent in the eastern sector : "U.N. Forces will not go on admitting the status quo in South Lebanon... They are determined to re-establish the authority of the Lebanese state, since such is their mission, over the whole region." He added on that same day of August 11th "the blue helmets will progress towards the official borders, towards the international border, at the adequate time and when the international situation will allow it."

The second statement was already a slight variation on the first one... As one can see, the U.N. forces cannot afford the policy that they are asked to implement. On that issue, the vice-secretary general of the U.N., when in Beirut in the beginning of August 1979, has been clear enough. As the vice-secretary general in charge of special political affairs, he stated that it was currently impossible to increase the U.N.I.F.I.L. which anyway, as he took care to stress, only stands as a peace-keeping force. The point he wanted to make was that the U.N.I.F.I.L. "is not capable of really fighting an adversary which uses large-scale means, heavy armament, and especially air bombing." Such a situation seems impossible to unravel.

To be sure, it is possible to affirm that the Israelis, at any rate in the South, seek their own goals in fighting against the Palestinian forces

which are in that region. However, one feels driven to recall that in 1978, the P.L.O., which renewed this utterance in June 1979, stated its readiness to allow Lebanese state sovereignty to be restored in South Lebanon, to permit deployment of U.N.I.F.I.L. forces, and to let the U.N.I.F.I.L. fulfill its mission. To this end, the Palestinian forces accepted to withdraw 15 km (about 10 miles) from the border, the eastern sector excluded, at least in 1978, since in 1979 they also accepted a modest withdrawal in the Arkub region. Thus we have a field situation which would be relatively clear if there were no Israeli aggressions, since the Lebanese state sovereignty can and must be restored by the U.N.I.F.I.L. fulfill its mission. To this end, the Palestinian forces accepted to withdraw 15 km (about 10 miles) from the border, the eastern international press nor the French press do much to attract their readers' attention to those aspects.

In fact, the Lebanese people in the South of the country find themselves placed in the same situation as did, a long time ago, the Palestinian people : they gradually abandon their land. Currently, several hundred thousand refugees go back and forth according to the hazards of bombings : one only has to refer to the typical example of the city of Tyre, which used to have, before the Lebanese civil war, 80,000 inhabitants, and, though it was the site of no particular struggles during the civil war, was reduced, when we visited it last July, to 20,000 inhabitants, only numbering today 7,000 inhabitants : this clearly displays the workings of a hellish logic, due to which, finally, once the Southern cities have been almost entirely emptied of their population, the Israeli occupation will meet no further hindrance. One should at last recall that the P.L.O., as an act of respect towards Lebanese sovereignty, has decided to forego all form of military activity close to Lebanese urban communities, especially those towns which have been severely touched by the Israeli air force, above all Nabatieh and Tyre , but this decision has in no way stopped the bombings.

THE MILITARY PRESENCE OF THE UNITED STATES IN THE AREA.

Mr. JOE NORDMANN,
President of the International Associaiton of Democratic Lawyers

This military presence is prepared by the texts now under examination, by Annex 1 especially in its art. 6, and by a document also included as an annex, the letter addressed by President Carter to President Sadat and to the Israeli Premier.

Far from ensuring the control of the withdrawal of Israeli forces, it entails the replacement of the evacuated bases by new air force bases.

According to an article written in the magazine "Fortune" on July 16th 1979, two huge new air bases are to be built in Negev by the engineering corps of the American army, for the Israeli air force. Each of these bases will cover more than 8,000 acres.

All expenses are entirely taken in charge by the American budget. The first assessment of costs amounted to $ 800 million, freely handed over to Israel by the United States, but according to the American press, the actual budget will exceed that estimate by far. and will be partly deducted from the $ two billion of American aid to Israel.

The deputy chief of staff for the American army enginerring corps has obtained the implementation of rules solely enacted with wartime validity, which allow him to use, through priority commandeering, all the personnel and all the equipment of American factories.

Those two air bases will be built within the record time of 30 months, no call being made either on Israeli manpower or even on Israeli equipment. Manpower is to be provided by South Korea, the Philippines, and other countries.

These plans have been drawn without taking the advice of the U.S. Congress, which is unusual procedure in the United States, and reflects the exceptional importance attached by the American government to the building of those bases.

In other American publications, the question has been asked whether a number of missions which were allotted to American forces in Iran were not likely to be handed over to forces stationed in Israel and also in Egypt. One can link with this hypothesis the agreement signed on September 19th in Washington between Mr. Cyrus Vance and the Defence Ministers of the Arab Republic of Egypt and of Israel.

This agreement has been revealed by the *New York Times*, but no mention of it has appeared in the French press.

The *New York Times* dated September 20, carries the following front page headline : *"Sinai Accord is Set. Monitoring by U.S. is to be Broadened. Accord is reached in Washington. – Americans to Expand Air and Land Surveillance."*

This goes obviously far beyond the replacement of 200 American unarmed personnel, who were to withdraw in 1980 and to be replaced by an equal number of armed military.

That is not what the agreement is about. There is talk of air and land surveillance.

The paper then goes on :

"Officials said that the mission would have a *larger role* than it does now and that *military personnel* would be used. American officials said that *the U.S. would have overall supervisory responsabilities*, possibly augmented by U.N. observers to monitor the treaty in the area that will be relinquished by the Israelis."

"As outlined by Mr. Vance, the U.S. will play a *major surveillance role on the ground and in the air...*"

The American initiators of the texts which we examine have never been deluded as to the real nature of the United Nations intervention, which was, according to President Carter's letter, to be replaced by an international force set up by the United States : it is a front, a trompe -l'œil, to borrow an apt phrase from the authors of the introductory report. What we actually have to deal with right now is the installation of powerful bases under American control, decreed by the head of the State Department and the Defence ministers of Egypt and Israel.

These facts illustrate, and this will be my conclusion, the role of watchdog of the region which the United States are called on to play under the terms of this accord, a role forcefully outlined in the address from Y. Arafat which we have been honored to hear. He remarks that these accords endanger the national liberation movements throughout the region, and, from a general point of view, actually threaten peace.

II

THE IMPACT OF THE CAMP DAVID ACCORDS AND OF THE ISRAELI-EGYPTIAN TREATY

A. ON THE O.A.U. AND ON THE CONFERENCE OF NON-ALIGNED NATIONS
(Mr. BEYE)

B. INSIDE CERTAIN COMMUNITIES IN THE UNITED STATES
(Messrs. HINDS AND MEDINA)

C. IN OTHER COUNTRIES : EGYPT ITSELF, U.S.S.R., MADAGASCAR, NORTHERN COUNTRIES, IRAN
(Messrs. EL GAMAL, MAZOV, RAZAFINDRALAMBO, EKLUND, LAHIDJI)

A. THE IMPACT ON THE O.A.U. AND ON THE CONFERENCE OF NON-ALIGNED NATIONS

Mr. BEYE,
Minister of Foreign Affairs in the government of Mali.

I would like to outline a few points, not as a former lawyer, but as a man actively involved in politics and taking a part in today's international relations, which are essentially marked by the very delicate problem of the Middle East. I shall therefore limit myself to an account of how this question has been dealt with in various meetings I attended : last July, before the O.A.U., and more recently, a few weeks ago, in Cuba, on the occasion of the Non-Aligned Summit. Your debates, the analyses I listened to this morning, were a new contribution to my reflexions, the more useful since I am on my way to New York, where I am to take part in the United Nations General Assembly, where, undoubtedly, the Middle East question and the Palestinian problem will be debated as a central issue. And we belong to those states which would like an extraordinary session of the General Assembly to be devoted to the Palestinian problems.

1) Inside the O.A.U., we have been forced to examine that question. As you know, O.A.U. is a continental African organization, bringing aid to its member states, of which Egypt is one. And Egypt happens to be central to the Middle East question. After the Israeli aggression in 1967, African states took the brave step of breaking all their diplomatic ties with Israel, since one of our member states, Egypt, had seen part of its territory occupied. One of the principles of the O.A.U. Charter has it that, when one inch of territory is occupied in one of our states, all the other member states in the organization feel concerned. Because of this solidarity, we broke our diplomatic ties with Israel. From then on, as the problem developed new dimensions, the O.A.U. had to think about it, and we did think about it. But within the O.A.U., there was a first catch : Egypt was the sole African state to belong to the war zone, since other African Arab states, such as Lybia, Tunisia, Morocco, are remote

from that zone. Egypt was actually the only African state inside the war zone.

The second catch came from the fact that the P.L.O., which is regarded by our organization as the sole legitimate representative of the Palestinian people, the P.L.O., which was invited to our conference in the capacity of observer, is nevertheless not a member of the O.A.U. This is why we asked those African Arab brothers who accepted to follow us not to set the Egyptian problem in terms of exclusion or suspension ; for, whereas such steps were conceivable in some settings, for instance the Arab League or the Islamic conference, they could not be sustained in such an organization as the O.A.U.

However, we in the O.A.U. could not do less than affirm and reaffirm clearly and forcefully the Arab standpoint, which, in our view, includes the three major issues which you all know : the central issue remains the inalienable rights of the Palestinian people, but we also insist on the evacuation of all those Arab territories which have been occupied as a result of Israeli aggression, and on the necessity of giving Jerusalem an international statute more fitting with its past, which we all know.

This is the reason why African States did not pronounce an overall condemnation of the Camp David accords and the documents issued in their wake.

Actually, our analysis focussed on two points : Egypt is a sovereign state, whatever its leaders may be, and the Egyptian people and their leaders, who draw their power from the Constitution, are entitled to negotiate accords on behalf of the Egyptian people. If the Egyptian people feel that finally, their government has negotiated accords which deal a drastic blow to Egyptian sovereignty, then the Egyptian people must draw their own conclusions. It does not fall within the competence of another state, still less of another organization, to deny the Egyptian leaders their right to sign an accord. Thus, we could not consider that Egypt was at fault in using its right to conclude an international accord. however – and this is a very clear provision of international law – Egypt was not entitled, in signing this accord, to run contrary to the general principles of international law, which are well known and have been subscribed to by Egypt itself. Egypt certainly does not have a right to sign an accord on behalf of a party other than itself : therefore, it should not act in the Palestinians' place, even less in the place of Jordan, a sovereign state. Thus, all the clauses of the Camp David accords and the joint documents bearing on the Palestinians and their future, or on Jordan, which did not attend the negotiations, seem unacceptable to us and quite obviously void.

This is why the Monrovia resolution of O.A.U. condemns the Camp David accords : because of the clauses bearing upon the Palestinians and of those which bear upon Jordan. We did not extend our condemnation any further, so as not to lie open to the easy criticism that we have infringed on the sovereignty of Egypt, which has a full right to sell itself to the devil if such was the will of its leaders. At any rate, we,

as officials in other African states, have no business to judge it.

We have also noted with deep regret that this accord, basing itself solely on Resolution 242 (which, and this has been clearly analysed, included ambiguous phrases, such as "refugees", and did not stress with sufficient emphasis the notion of legitimate right of the Palestinian people), ignores the right of people to self-determination, and singularly the inalienable right of the Palestinian people to express itself within a free and independent State. It is on that point, concerning the agreement accepted by Egypt, that we see how unsatisfactory the accords are.

On the level of the Monrovia conference, the analysis went no further, and this is, of course, why the O.A.U. did not exclude Egypt. We did not believe that the setting was right, nor that the fault was grave enough to reach such a decision. But we have confirmed, in all its extent, the support of Arab theses by Africa, and we have warned Egypt : if Africa has been brought to break its diplomatic relations with Israel, it was not only because Egyptian territories were occupied, but also because principles were at stake . Nobody is to tell us that African states are to restore diplomatic ties with Israel because Israel is to restore its relations with Egypt. We believe that the restoration of diplomatic relations is a question of sovereignty, which depends upon the evaluation of each sovereign government ; each one, in due time, will see what they deem fit to do. But the fact that Egypt renews its diplomatic ties with Israel must not be considered as a decision of the C.A.U., according to which everybody, from now on, must restore their diplomatic relations.

2) It has been said in the press that with the Non-Aligned Nations, in Havana, African states has reversed their judgment, pronouncing a much harder, much more global condemnation. I protest against that analysis and that totally biased interpretation of the Havana decision. 96 states are members of the Non-Aligned conference. It has been recalled this morning that the P.L.O. enjoys an undeniable degree of international recognition by the U.N., the Arab League, the O.A.U. What has been omitted is the fact that the P.L.O. is a member entity, as full a member as any other sovereign state, of the Non-Aligned movement.

Thus the background is very different from what we have in the O.A.U., if only because the P.L.O. is a *member* of the Non-Aligned. Moreover, in the Non-Aligned movement, membership is not limited to African States : there are the Arab states, in particular those in the Steadfast front ; Syria, Irak, Libya, other Arab b states were also present. The stand taken by the Non-Aligned movement was therefore much tougher, much more severe than within O.A.U. This does not mean at all that O.A.U. member states were contradicting themselves ; they started by a confirmation of their Monrovia standpoint, but then had new material submitted to them, evidence which was highly relevant in relation with our Monrovia discussions.

This evidence stands as follows :

Firstly, the Arab countries brought to our notice the fact that Egypt, when it signed the Camp David accords (although, as I stated

before, it is entitled to sign an accord), made light of the previous agreements which it had concluded with other Arab states ; this point has been duly stressed here, asd especially by Prof. Chaumont who has taught us the principle of non-contradiction. It is a fact that Egypt, as well as at the Rabat summit or the Algiers summit as at the Cairo summit, has always bound itself in front of its Arab brothers with the promise that it would act so as to render a separate peace settlement impossible and favour the achievement of a global peace settlement as the only possible way of solving the Middle East problem : indeed, the main feature of the Middle East problem is its global nature, and any effort to solve it in only one of its aspects can only make the problem more complex. One wonders therefore whether those Camp David accords are an attempt to solve the question, or rather seek to complicate it further.

The Arab countries provided us with another relevant point in the ground of politics : it should not be forgotten that in 1967, when the conflict started, President Nasser's Egypt took numerous initiatives, sending emissaries in the night to see the President of Syria, to tell him "we have to resume hostilities", and ask for Syria's agreement to send away U.N. troops, which were at least a guarantee for Syria, which did not have any occupied territory before 1967 ; Syria agreed with Egypt's proposal. They fought the war together under an Egyptian command. And this war has been lost by Arab countries.

Syria's territory was occupied, just like Egypt's. And today, Egypt accepts to negotiate, under circumstances we are all aware of, the evacuation of its own territory, of its territory alone. and what an evacuation ! as it has previously been shown, a dubious evacuation, in spite of which Syria's occupation continues. If, from the juridical point of view, one may wonder about the aptest way to term such conduct, there is no doubt that, from the political point of view, it is not an orthodox action.

Thus, the representatives of our Arab brothers proved, at least on the Non-Aligned level, that there was good cause to condemn the accords globally. But our Arab brothers also found that those accords stood as a threat to their security. This threat is not limited to Arab countries. It also affects certain African states, since, according to information which has started spreading, and even according to the statements of some Egyptian leaders, which are a cause of concern to us, forces which might be intervention forces exist not only in Arab countries, but also in certain African countries, especially in the North-West part of our continent, where the prevailing situation is well known, and induces great uneasiness in my country, for instance.

As you see, on the Non-Aligned level, many more facts concurred to cause a much firmer condemnation than on the O.A.U. level.

Therefore, in my estimate, what happened within the Arab League is not contradictory with what happened in the O.A.U., neither is it contradictory with what happened with the Non-Aligned, and it will not

be contradictory with whatever else might happen on the U.N. level. Each organization has its strategy, each organization has its policy determined by its membership and by its approach to problems.

I would like to add that, a short time ago, somebody mentioned a promise of aid. Yesterday, I read a press release according to which it is now more than a promise. The day before yesterday, an agreement bearing on $ 336 million had been signed ; it covers six Egyptian projects, and the amount comes entirely as grants. It is an agreement between the American government and the Egyptian government : this means that what was once a promise has turned into a reality, and it is probably the price of these accords.

B. THE IMPACT INSIDE CERTAIN COMMUNITIES IN THE UNITED STATES

Mr. LENNOX S. HINDS
Lawyer and I.A.D.L. permanent representative to the U.N. in New York.

On behalf of the delegation from the United States, may I express our appreciation to IADL for sponsoring this important and timely dialogue on the implications of the Camp David Accords.

This discussion could not be held at a more opportune time from our point of view because of the *internal* political climate in the United States when perhaps for the first time the broad masses of people of color and minority status in the United States are becoming aware of the oppression of the Palestinian people.

We fully concur with the conclusions of Prof. Chemillier Gendreau and Prof. Colin that "The Camp David agreements which are a particular treaty concerning a particular situation, are contrary to the general customary law fully expressed in Resolutions 1514 and 2625. But they are also contrary to the general peremptory (jus cogens) in its restrictive and incorrect conception of the right to self-determination, and for this reason is void. Art. 53 of the Vienna Convention of 29 May 19 reads : 'A Treaty is void, if, at the time of its conclusion, it conflicts with a peremptory norm of general international law."

We concur. We see clearly that the position advocated by the U.N. in regard to the rights of the Palestinian people is identical to the position it has taken historically with respect to the rights of the indigenous people and oppressed minorities in the United States.

It is a position that.....is racist.....is oppressive and is ..... politically motivated.

In the United States, as in other countries, the law is *not* a neutral instrument. The laws and the administration of justice are not neutral but rather political tools for legitimating the exercise of authority

by those in power and for suppressing dissent when deemed necessary. The historical experiences of racial minority groups in North America under the yoke of the law are singularly graphic and illuminating of the selective application of the law to serve political ends.

The law was used to strip Native Americans and Mexican Americans of their lands.

The law sanctioned the subjugation of minorities ; excluded them from participating in the political process and stifled challenges they might pose to white and European supremacy.

Throughout the history of the United States, law has been the politically motivated instrumentality of racism. It has been used both overtly and covertly to enforce and legitimize enslavement, segregation, and the theft of ancestral lands and to exclude minorities systematically from political, social and economic processes.

We, the sons and daughters of former slaves and representatives of over thirty million oppressed blacks in the United States, recognize the tyranny of the Camp David Accords of which the United States have been the chief architect.

We are the Americans taken forcibly from our African homelands to colonial America ; arrived at Jamestown in August, 1619. Within forty years the Africans brought to America had become a group apart, separated from the rest of society by law and custom. Legally classified as slaves for their lives, a status inherited by the children, forbidden to contract, learn or intermarry with white, deprived of their African heritages, dispersed among the colonies for unremitting toil, chattel slavery as it developed in the United States laid the foundation for the institutionalized and legally sanctioned repression and oppression which is vested upon black, brown and red people in the United States until this day. It is with this understanding and our extensive personal experience with the legally sanctioned divestiture of land, the rights of citizenship and economic benefits by the United States government that the awakening masses of oppressed blacks and their allies in the United States have assessed the Camp David Accords. We see clearly that our Palestinian brothers and sisters have been made the Niggers of the Middle East by this abuse and distortion of the principles of international law.

We will be presenting this invaluable information and analysis provided by the symposium's conclusions, to our people in the United States and to the Congressional Black Caucus in Washington, D.C., upon my return to the United States.

Thank you for your attention and your invaluable contributions.

Mr. JOSE MEDINA,

President of the Raza Legal Alliance
Houston – U.S.A.

On behalf of the "Raza Legal Alliance" I extend greetings and a message of solidarity to this conference. The Alliance wishes to thank the International Association of Democratic Lawyers for the invitation to participate and we welcome the opportunity to dialogue with representatives of the progressive legal committee internationally.

Our organisation is a young organization composed of Latino lawyers, students and other legal workers. We share a commitment in active involvement in the struggle for people for economic, political and social justice and equality. We are presently engaged in problematic work studying the struggles of agricultural workers, police brutality and repression, defense of migrant workers, affirmative action for equal pay for equal work and equal access to higher education and full equality for women. I would like to relate a brief history of our people as a background to our support of the legitimate struggle of the Palestinian people. As a people, the Latinos have historically been oppressed in the United States. South Western and Western U.S. were taken from Mexico by force in the 1830's as Mexicans fought and died for the restoration of the Mexican Constitution which would grant broad liberties and would have abolished any form of slavery on Mexican territory. Anglo-colonisers opportunistically declared the struggle as a war for Texan Independence. Texas gained independence from Mexico but, with independence came continued slavery for black people and a history of oppression for the Mexican people. Likewise a similar rebellion in California ceded over two-thirds of all Mexican territory to the U.S. That war of aggression terminated in the Treaty of Guadelupe Dago in 1848. The Treaty guaranteed full rights of citizenship, the right to retain property and the right to full protection from the State for all Mexicans remaining in the occupied territory. The Treaty never received Senate ratification and like the International Human Rights Covenants has never

been honoured nor enforced in the U.S. Enactment of the Treaty satisfied the end of effective control over the territory, it never had intended, as a consequence, protection and safeguard of the rights of Mexicans in the United States. Puerto-Rico to this day remains a territory oppressed by the United States, its labour laws protecting Puerto-Ricans workers recruited to work in other parts of the U.S. are constantly broken. Approximately thirty-five percent of Puerto-Rican women of child bearing age have been forcefully sterilized. These sterilizations are no different than the genocide perpetrated against the Palestinian people. Puerto-Rican territory is constantly devastated by military manœuvres, including the use of bombs. The just struggle for the work of Puerto-Rican independence has consistantly been attacked by the Bushwhackers, looking for statehood but the struggle for independence will prevail. The brief discussion of the oppression of Latinos in the U.S. underscores the fact that we as a people continue to suffer from the stranglehold of Imperialism. It is with this perspective and commonality that we express our solidarity with the just struggle for liberation of the Palestinian people and condemn, the U.S., Israeli Egyptian Peace Accords. The Camp David Agreement is neither designed to bring peace nor to promote justice for the Palestinian people. It is designed to strengthen the rule of Imperialism over the Middle East and by so doing over Africa, Asia and Europe. No serious honest effort to resolve the conflict in the Middle East will ever exclude the participation of the Palestinian people nor its sole and legitimate representative, the P.L.O., nor can there be peace until the forces of Imperialism and reaction recognize the just and legitimate demand for an independent sovereign Palestinian State. Only through inclusion of the Palestinian people in the peace process will such acts of aggression as forced deportation, particularly of the leadership ; expropriation and ravishment of Palestinian property, continued bombing and other forms of dissipation of the population be effectivelychallengedand terminated.

The right to self-determination gives Palestine not only the right to self-rule but also the right to control and possession of its land. Any treaty failing to uphold this principle is incomplete. All States have the right to self-determination. Zionism is a weapon used by imperialist forces to maintain control of the Strategic Middle East in contravention of the principles of self-determination. People throughout the world, especially other oppressed people, recognise that the struggle against Zionism is not one based on religion, it is one to uphold the basic principles of the right to self-determination.

We applaud the leading role of the P.L.O. in giving life and direction to the demand for a free and independent Palestinian State. We also recognise and applaud the valient work to the anti-Zionist movement within Israel itself. We condemn those who distort history by comparing the heroic struggle of the Palestinians to the fascism of Hitler's Nazi Party. The two perpetrators of genocide today are those who continue to prop up reactionary regimes around the world and to continue oppres-

sion over national minorities within their territory. The Imperialists and their puppets will not relent but the liberation struggles and the yearnings of people to be free will prevail.

As jurists we are committed to the legal and political defence of our peoples struggles for liberation and equality. We are a young organization but our message to solidarity carries a commitment ; our collective experience and our sincerity to the just struggle of the Palestinian people and of this organization.

C. THE IMPACT IN OTHER COUNTRIES

Mr. EL GAMAL
Professor at the Faculty
of Law of the University of Cairo
Former minister

I wish to stress the fact that the Egyptian opposition was unable to state its point of view about the treaties passed between the Egyptian government and Israel. It has had no such opportunity, through any of the media, so that the Egyptian people heard only one point of view : that of the government. This government prepared the ground for the treaty by promulgating laws which restrict liberties, so that no discussion of the accords in front of the Egyptian people was possible. Our people, like any other, long for peace, they love peace. But the peace the Egyptian people ask for is a genuine, fair and global peace, a peace which would not separate them from their Arab brothers and which would allow Palestinians their legitimate right to set up their own sovereign and independent state.

From a juridical point of view, the Israeli-Egyptian treaty is, as everybody knows, a bilateral agreement. I totally endorse the analysis according to which that treaty constitutes a grave violation of fundamental principles in the law of nations and in the United Nations Charter.

It must also be stressed that this bilateral accord is contradictory to all Arab collective accords and with the decisions of Arab summits, especially those of Rabat and Algiers. Clearly, this treaty does not fulfil the goals and wishes of the Arab people, especially the Palestinian Arab people : the treaty does not ensure the total withdrawal of Israeli troops from all Arab territories occupied in 1967, it does not affirm the legitimate right of the Palestinian people to create their independent and sovereign state on their own land ; the treaty only aims at autonomy, and for the Israelis, this administrative autonomy is limited to inhabitants and does not include the territory. The treaty does not

refer at all to the Arab city of Jerusalem (the Israelis claim with great arrogance that the holy city is the eternal capital of Israel). The Treaty does not stipulate the return of all Palestinians on their land, and thus leaves thousands of Palestinians without a home. The treaty refers in no way to the P.L.O., sole legitimate representative of the Palestinian people.

The Israeli-Egyptian treaty, being solely a bilateral accord, has allowed the two contracting parties to talk on behalf of other parties, which is contrary to the usual rules of law . The co-signers of an accord, whatever its nature may be, have no right to talk on behalf of other people and to obligate them. Since the Palestinian people have an exclusive right to self-determination, and since P.L.O. is the only legitimate representative of the Palestinian people, no people have a right to talk on their behalf, and any discussion in that field has no legal value. For the Palestinian people, the Israeli-Egyptian treaty is a mere material hindrance, which they are entitled to fully ignore.

Thus, the way is open before the Palestinian people, for them to defend their cause, their existence within the international community, so as to obtain recognition by every nation and to realize their ultimate objective : establish the independent and sovereign Palestinian state.

Mr. MAZOV

Professor of International Law at the Institute of Law and State of Moscow

It has already been said that the reports that we have heard deserve notice for their theoretical foundations and their conclusions.

The orators have shown that the treaties signed by the United States, Israel and Egypt were in total disagreement with the basic principles of contemporary international law, and, in the first place, with the principles of self-determination, of the right of peoples to live peacefully, and of sovereignty which form the principles of *jus cogens* of international law.

Contemporary international law does not grant certain states the possibility of denying the principles of *jus cogens* through the conclusion of a separate treaty which pursues interests not in conformity with those principles. The actions directed against Arab countries were nothing less than a war, with the object of seizing part of their territories. The definition of aggression given by the Assembly General of the U.N. makes it clear that a war of aggression is a crime against peace, which involves its authors' responsibility, according to international law. Therefore, the annexation of territories by means of an aggression cannot be recognized. Whatever the results of the war, the aggressor is a criminal. The aggressor involves his responsibility for his international crime, and he has to repair damages caused to the other countries by the aggression. This means that the Americano-Israelo-Egyptian accords are at absolute variance with this principle, which is unanimously acknowledged by international law : the principle of the responsibility entailed by a war of aggression.

Obviously, the question of the withdrawal of Israeli troops from occupied Arab territories and of the suppression of all the consequences of Israeli aggressions against Arab states is essential, according to contemporary international law. The General Assembly of the U.N., in its session of 1967, adopted twice with an overwhelming majority, the

resolutions demanding of Israel the annulment of the measures which purported to annex Arab parts (resolution of July 4th 1967, and resolution of July 14th). The General Assembly also confirmed the most important principle of contemporary international law : the unacceptable character of the annexation of a territory by force. Moreover, it has rejected Israel's claims in that field.

The aggressor is not entitled to keep any benefits from its aggression. To settle the problems of the Middle East, to procure a lasting peace in that area, it is necessary to bring to an end the occupation of all Arab territories seized by Israel in 1967.

The Americano-Israelo-Egyptian treaty did not solve anything. On the contrary, it fosters new conflicts. Concerning the Middle East problem, the Soviet policy is as follows : The Soviet Union favours a general and fair solution to the problems of the Middle East, the instauration of a sound peace in that part of the world. The Soviet Union stands by the side of the Arab people who reject any decision which violates their vital interest.

Mr. RAZAFINDRALAMBO
First President of the Supreme Court of Madagascar.

In Madagascar, we believe that the struggle for independence and the right of people to self-determination should be waged by all available means, and that the juridical weapon should be used as a priority choice. This has always been our standpoint regarding liberation movements. Of late, Madagascar expounded at length, on the occasion of its addresses at the O.A.U. summit in Monrovia and at the Non-Aligned summit in Havana, a historico-juridical position concerning the Sahraoui problem. Though we do have, in Tananarive, permanent missions from liberation movements such as Polisario or the P.L.O., we do not rank political action higher than juridical legitimacy.

From that point of view, we consider that the reports given out by Professors Chemillier-Gendreau and Colin, as well as the addresses by previous orators, bring all the necessary elements to answer the juridical problems concerning the validity of the Camp David accords and of the subsequent treaty.

In that field, an argument deserves to be especially stressed : that, according to which the right to self-determination – such is the terminology used currently in the General Assembly – constitutes an authoritative norm of international law in general, that is to say, a rule of *jus cogens*. The unescapable consequence is that the violation of that rule entails the nullity of the instruments in question. I believe that a broad consensus has been reached upon that point, and that all present jurists agree to note that the convenants we question, passed between the United States, Israel, and Egypt, have totally ignored the right of the Palestinian people to self-determination, and are thus liable to be quite simply annulled. However, there is still a controversial point. It has been asserted that certain provisions of those covenants might remain valid, on account of their specific object, but, in our view, this thesis cannot prevail. During the work session preliminary to the Vienna convention on the law of treaties, it has been suggested that the nullity called for by art. 50 of the draft project prepared by the International Law Committee

(which became art. 53 in the definitive version adopted in Vienna) might in some cases be partial. It is the thesis of the dividable character of nullity, supported by Finland. But considering the numerous objections raised against this doctrine, Finland finally withdrew its amendment. Henceforth, the violation of *jus cogens* foreseen in art. 53 of the Vienna Convention brings about absolute and total nullity. We believe that this point should be underlined in the draft resolution which we are to adopt today. Moreover, I believe that, with a view to efficiency, our resolution should invite the General Assembly itself to adopt a resolution based on the legal argumentation that we have outlined as a result of our discussions. Admittedly, there seems to be some difficulty in prevailing upon the General Assembly to endorse a legal thesis, however well grounded, when it stems from a non-governmental organization, even though it is endowed with consultative status. The solution which the General Assembly is likely to adopt on that point is to have the question discussed by a larger committee of the General Assembly. Therefore, as a subsidiary remark, I suggest that our resolution requires the General Assembly to resort to art. 96 of the Charter and 65 of the Statute of the International Court of Justice and to put before this Court a request for consultative advice. In that field, we have an unfortunate precedent with South-West Africa, and a fortunate one with Western Sahara.

Mr. PER EKLUND
President of the Court of Appeals – Sweden

I have not much to add to what my learned friends have said. But as I am the only representative from the countries in north Europe I wish to say a few words.

I agree in the criticism that has been expressed by professors Monique Chemillier-Gendreau and Jean-Pierre Colin and by other speakers yesterday and today. There is all over the world a raising consciousness that the Palestinian people are treated in a bad way, that the Palestinians are, as Mr. Lennox Hinds said, the niggers of the Middle East.

I think that we also in Sweden are beginning to understand that Mr. Menahem Begin is not a peace-maker, in spite of his Nobel prize. *But* that his policy is a meance to peace, that he hasn't the slightest intention of recognizing the Palestinian's right to self-determination.

The Swedish newspaper *Arbetet* – it is the largest social-democratic daily paper and can be looked at as the speaker for the social-democratic party, the biggest political party in Sweden – it says that the strength of Israel once was, that it stood on a moral ground. But now Israel is getting rid of its moral capital through violence and new settlements in the occupied territories.

The nearer to world is coming to a recognition of the PLO, the greater is the risk that the government of Israel will try to produce such conditions on the West Bank and in Gaza that there will not be much left to recognize. The settlement activities in the occupied territories constitute a grave and serious impediment to peace.

And the newspaper continues. From what is happening we must draw the conclusion that Israel wants to dictate a suitable solution for Israel to the problems in the Middle East.

It is necessary to reach a real, permanent and just peace in the Middle East, a peace which is based on justice. That means, says the newspaper, a way other than Mr. Begin's.

That is what the newspaper said, and that is today the opinion of most socialists in Sweden and, I think, of other people too.

The international law is not the only significant thing. I will emphasize that there is also a de facto status, the existence of the Palestinian people and the PLO. I will remind you of what the Austrian prime minister, Bruno Kreisky, said at the meeting in Vienna with Yasser Arafat and Willy Brandt from West Germany in July this year. He said : said :

I consider the status of the Palestinian people and of the PLO similar to the former status of Algeria. Let me say something essential to you : as one who was once outside the country like tens of thousands of Austrians and speaking in the name of a country which was not on the map that day. I have, said Kreisky, a certain understanding of those who have the same feelings. That is one of the reasons that made him care for the Palestine issue more than usual. Austria was not on the map but the Austrian people were existing. He felt happy, Kreisky said, when the Swedish prime minister during the war received him at his office to discuss with him the contribution and assistance, the Swedish people could present to the Austrian people after the war.

I say : the P.L.O. is a reality, the P.L.O. cannot be neglected, the P.L.O. is the real face of the Palestinian people. Monique Chemillier-Gendreau and Jean-Pierre Colin have proved that Camp David agreements and Washington treaty can't lead to peace, but that they are instruments in the oppression of the Palestinian people. The agreement and treaty can for that and other reasons, not be accepted. That is my opinion too. And also, I think the opinion of all people who wish for freedom and peace. for all people. It must not be possible for three outside countries to deprive the Palestinian people of its right to self-determination.

Thank you.

Mr. LAHIDJI

Barrister, Association of Iranian Lawyers

The Association of Iranian Lawyers is proud of an already lengthy past of cooperation and mutual help with the International Association of Democratic Lawyers. This solidarity was a priceless support for us in our struggle against the Pahlavis dictatorship, and we hope that we shall always be able to rely on this cooperation in our continued efforts, as much in Iran as elsewhere, to defend Human Rights, protect basic liberties and further the reign of justice.

Truly, a struggle which seeks such an ideal knows neither end nor respite. Overthrowing a dictatorship does not, by itself, guarantee the respect of liberties, especially in countries which, for centuries, have only known dictatorial systems ; but that act is certainly an essential first step. It is well known that democracy does not come as a natural gift to any society, being rather a process of continuous education towards social co-existence and government, an object of teaching and instruction, at the frequent cost of a lot of trouble, a lot of disquiet. It is, finally, a system which is procured, maintained and developed at a high cost ; but which has a human and social value that, in our view, fully accounts for all the sacrifices and battles leading to its realization.

But this national struggle in favour of the reign of justice and the respect of human rights cannot be parted from the struggle for independence and the respect of the right of people to determine their own destiny. Without a genuine political, economical and social independence (which has nothing to do with a self-centered withdrawal, a narrow isolationism, in this interdependent world), without that independence, national attempts to reach social development in a context of freedom and justice will always come to odds with the exercise of selfish imperialist interests, and are, sooner or later, doomed to fail. Dr. Mossadegh's Iran, Allende's Chile, among so many others, experienced that cruel truth : self-determination and independence on the one hand, and, on the other

hand, the anti-imperialist struggle, are but two faces of the same coin, in the current international context.

From where springs the necessary solidarity of oppressed people in the anti-imperailist struggle, a solidarity which Iranian revolutionaries have never ceased proclaiming, especially as regards the Palestinian people, as symbol of this struggle, who have been paying for so long with the blood of its youth and with unceasing pain, their fight for the recognition of their legitimate and unalienable rights in Palestine. Through this struggle, through the daily sacrifices which it implies, the Palestinians, considered as refugees by Resolution 242 of the Security Council, have managed to assert themselves, within eleven years, as a people, conscious of their unity, organized, structured, and the P.L.O. has been time and again formally recognized by the overwhelming majority of states as the sole legitimate representative of the Palestinian people, vested with an unalienable right to establish national power over any Palestinian territory that might be liberated.

Thus we can only condemn the Camp David accords which, violating the most fundamental rules of international law, recognized by all, such as the right of people to decide on their own destiny, ignoring the P.L.O., forgetting Jerusalem, including no mention whatever of self-determination, settle the destiny of the Palestinian people and integrate the Palestinians to solutions negotiated without them.

The discussion of the Accords by Mme Chemillier-Gendreau and M. Colin, carried out from the point of view of international law, is ample proof of their illegality in that respect, and I fully support the conclusions of their examination. But moreover, I am bound to state my deep disappointment before the fundamental political mistake made by the Egyptian government, which thinks it can solve the economical problems and the social crisis endured by its people by relying thoughtlessly on an imperialist power, whose mere tool it becomes, the more vulnerable as it confronts Israeli intransigence and its obvious and repeatedly confirmed dishonesty (the policy of establishing settlements in occupied territories is but a striking example of this attitude).

Finally, due to these separate Accords, a new gap has been opened in the necessary solidarity of brother countries, a solidarity without which oppressed people, the Egyptian people included, will not be able to reject the yoke of exploitation by imperialist powers which decide on their destiny according to their own interests, and do not seem ready, far from it, to negotiate with them as peers.

Nevertheless, in some respects, the year 1979 has been hopeful and auspicious : on the one hand, as regards the Palestinian cause proper, the P.L.O. is now unanimously recognized throughout the world, including Europe, and this goes with unanimous condemnation of the policy of Israeli settlements in occupied territories and of brutal human rights violations in these same territories. Lastly, even countries closely linked with Israel have had to admit that peace and stability in the Middle East cannot be achieved by crushing the right of the Palestinian people to

decide on its destiny, whatever the means used against that noble people, determined to assert its legitimate rights.

On the other hand, within national boundaries of existing states, the year 1979, marked by quite a hecatomb of dictators and tyrants enslaved to foreign interests, has seen the emergence of an awakening of people in Asia, Latin America and Africa ; consciousness has risen throughout the world of how strong people are when they unite against a corrupt and unjust regime, even if it benefits from powerful foreign alliances and important means of oppression.

This may be, if one looks towards the future, the most important gain of the political upheavals in recent months.

May these events, with the help of all those people and organizations which cherish justice and freedom, at last bring imperialist governments and powers to enact a drastic change in their national and foreign policies and to realize that peace and stability, which the world needs so desperately, cannot be achieved by force, oppression and denial of human rights and of liberties ; that the people, even if they starve, even if they have no awareness of democratic institutions, do not tolerate forever the burden of exploitation and violence without rebelling, as many times as necessary, and that all the forces leagued against a people will not succeed in robbing it of its identity, its culture, its soul.

The Palestinian people are a lofty symbol of this truth.

PART TWO

ADDITIONAL ASPECTS OF JURIDICAL ANALYSIS

A. THE CONCEPT OF PALESTINIAN PEOPLE, ITS CONTENTS, ITS QUEST FOR SOVEREIGNTY, THE PUTTING INTO PRACTICE OF THE RIGHT OF PEOPLES TO DECIDE ON THEIR DESTINY. STANDARDS OF GENERAL IMPERATIVE LAW. (Messrs. BELAID, COTTAN, FERRUCI, NGUYEN VAN LUU, JANKOVIC, MIDONI, GAJA, FALL, DOBSOU, BENCHIKH)

B. DO THE TREATIES INFRINGE UPON EGYPTIAN SOVEREIGNTY? (Messrs. PAECH, HINZ, STUBY, COLIN, BEYE)

C. THE PEACE TREATY CONCEPT (Messrs. STUBY, NGUYEN VAN LUU)

D. THE PROBLEMS ARISING FROM THE RECOGNITION OF THE INTERNATIONAL BORDER (MR. SALMON)

E. THE INCOMPETENCE OF THREE STATES TO SETTLE THE SITUATION OF A THIRD-PARTY PEOPLE (MR. RIGAUX)

F. THE RULE OF NON-CONTRADICTION BETWEEN SUCCESSIVE TREATIES (Messrs. GIARDINA, BELAID)

A. THE CONCEPT OF "PALESTINIAN PEOPLE" ; ITS CONTENTS THE QUEST FOR ITS SOVEREIGNTY. PUTTING INTO PRACTICE THE RIGHT OF PEOPLE TO DECIDE ON THEIR DESTINY. NORM OF GENERAL AUTHORITATIVE LAW

Mr. S. BELAID,
Professor in the Faculty of Law, Economics and Political Science of Tunis.

I wish to draw your attention to a number of ambiguities and contradictions within the Camp David Accords of 1978 and the Washington Accords of 1979, which show that these accords, as a last resort, solved no problem, and on the contrary, created new ones.

1 — Concerning the first aspect, it is enough to outline the terms used to "solve" two vital problems, which have been at the roots of the Middle Eastern crisis for several decades ; I refer to the recognition of the existence of the Palestinian people, and to the creation of a Palestinian state, two basic principles without which it is unlikely that peace will ever return to this region.

a) The accords seem to have been loath to mention the "Palestinian people". This phrase has been used only once in the Accords (Camp David, A. — Cisjordan and Gaza) ; elsewhere, the texts refer to "the Palestinians" and to "the inhabitants" (of Cisjordan and of Gaza), thus limiting themselves to phrases of very restricted import, which the Israelis, moreover, interpret in such a way as to deprive them of any meaning. What is more, the Accords solely refer themselves to Resolutions 242 and 338 of the Security Council, excluding any other document from the United Nations. The said Resolutions are known not to mention either the Palestinian people" or the "legitimate rights" of that people. Clearly, the "accords", which contradict the United Nations

legality and are a step backwards from the statements of their American and Egyptian initiators, are far from having solved that important problem, or rather – and that is especially grave – solved it according to the Israelis' wishes, by not recognizing the Palestinian people and its legitimate rights.

b) The same conclusion can be drawn concerning the practice by the Palestinian people of its right to self-determination and the creation of an independent state. Let us first note that neither in these accords nor in the statements of their co-signers, is there any mention of the creation of such an independent political entity. At most, the framework Accords of Camp David and the treaty of Washington refer to "self-government". But in that field, the texts have been written in such a way that they block any possible evolution towards the creation of an independent Palestinian state. There is cause to note that the autonomy status, far from being established by the texts, is still to be negotiated, and the negotiation is to be conducted, on the Arab side, by Egyptian and Jordanian delegations, which may include "Palestinians" appointed "by common agreement", that is, with Israel's agreement. As one can see, there is no mention of an autonomous Palestinian representation, or of a free choice of their representatives by the Palestinians, and even less of the presence of the Palestinian Liberation Organization (P.L.O.).

What is worse is that the autonomy mentioned has no political content, but a mere administrative content ; in the Israelis' mind, there is no question of "sovereignty", but only of the "autonomous management" of local affairs by the population of two provinces (Judea and Samaria) which are forever part of the Israeli entity. By virtue of the "Accords", perspectives are thus totally closed and the hope of witnessing the creation of a Palestinian state cannot be realized unless it is outside these "accords". This shows clearly enough that the said "accords" did not solve anything..

2) Besides the fact that these "accords" left pending the solution of the crucial problem of the Palestinians' future, or – which is worse – weighed it down with a heavy mortgage, they also appear, within the relationship between Egypt and Israel, as a real diktat that the victor inflicts on the vanquished, with the blessings and the active guarantee of a super-power : the United States.

a) In the first place, the "accords", it cannot be denied, from a separate peace settlement between Egypt and Israel, the conditions of which are settled by the victor. We do not wish to stress the political aspects of the question, but we shall limit ourselves to the purely juridical aspects of this "peace settlement". It is of especial significance to note the way of "solving" the question of compatibility of the "accords" with the promises already subscribed by the parties, or liable to be subscribed in the future : in this last respect, article 6, par. 4, sets it quite clearly that the "Parties promise to contract no obligation contradictory to this treaty" ; the phrase is clear, and it implies, for Egypt, among other things, a quasi-total political breaking off with all Arab

countries ; as regards engagements already subscribed, the phrases used in art. 6 par. 5 and addenda are so ambiguous and so obscure that they would puzzle the most experienced of jurists ; par. 5 grants priority to obligations originating from the "accords" over any other ; but the approved additive affirms in the same assertive way that "this treaty cannot prevail over other treaties or accords, neither can other treaties or provisions prevail over this treaty" ; and as if to contribute to an already total confusion, it is also pointed out that "the above must not be interpreted as contrary to the provisions of art. 6 par. 5 of the treaty"... Whatever one makes of the resulting imbroglio, the treaty includes a capital provision which actually negates any freedom of movement on the Egyptians' side ; that is art. 7, which briefly states that "controversies raised by the application or the interpretation of this treaty will be solved by negotiations... or conciliation or arbitration". Besides the fact that the framework for such a peaceful settlement is still to be defined, these provisions obviously give Israel a real veto, and enable it to oppose any Egyptian initiative that it might regard as contradictory with its interests. Thus, the "treaty" forced Egypt to accept considerable concessions as far as the present is concerned, but it also seriously limited its independence for the future, since it submitted this country to a sort of "Israeli-American political condominium"'

b) The United States did not only play the part of go-between with the contracting parties. They also accepted to act, on the diplomatic and on the military level, to guarantee the correct application of the treaty, "take necessary measures to guarantee the establishment and the maintenance of a substitutive multinational force" (Pdt. Carter's letter, 11/11/78), and, in case the Security Council fails, bring their "support to Israel's actions proper", and reinforce their presence in the area (Memo. for an Israelo-American agreement, signed on the same day as the treaty). It is easy to imagine all the military, political and other consequences which may stem from such an engagement on the part of the United States.

3 – To sum up the question, those "accords" which purported to solve or to offer an appropriate framework for the solution of a number of crucial problems in the region, actually solved nothing, and they can be more aptly considered as serious hindrances in the way of a global and lasting settlement of the Middle East crisis.

These conclusions, which the jurist draws from the examination of the "accords", concur with the highly pessimistic conclusions of political leaders, which the latest developments in the situation have merely confirmed.

Mr. HENRY CATTAN
Lawyer

NULLITY OF THE EGYPTIAN-ISRAELI ACCORDS UNDER INTERNATIONAL LAW

INTRODUCTION

In the following discussion the term "Accords" refers to the two Camp David framework Agreements dated 17 September 1978 and the letters exchanged between Egypt, Israel and the U.S.A. in connection therewith as well as the Egyptian-Israeli Peace Treaty of 26th March 1979 with its protocols and annexes.

Before examining the question of the validity of the Accords, it may be appropriate to consider briefly the guiding principles that dominated the negotiations which preceded their conclusion.

After the euphoria that resulted from his spectacular visit to Jerusalem on 19th November 1977, had subsided and even cooled in the face of Israeli intransigence and determination, President Sadat abandoned the programme for peace which he outlined to the Israeli Knesset on the day following his arrival. In particular, he abandoned two of its basic points which were,:

1. Total withdrawal from Arab land including, acccording to his expression, "Arab Jerusalem", occupied in 1967, such withdrawal, he said, being elementary, not negotiable and not subject to argument.

2. Realization of the fundamental rights of the Palestinian people and of their right to self-determination, including that of establishing their own state.

From then on, he limited himself to the recovery of Egyptian territory and declared : Egypt will insist on Israel's withdrawal from "every inch" of Sinai, on the dismantling of every settlement established there by Israel, and on the departure from Sinai of all Israeli civilians. To which Begin, Prime Minister of Israel, in a language reminiscent of

one of the characters made famous by Shakespeare, retorted that Israel would not return "one grain of sand" of Sinaï without receiving something in return.

These two attitudes became the basic principles that guided the negotiations. When a complete deadlock occurred, it was resolved, with U.S. assistance, by the parties finding what they thought would be a suitable terrain for compromise : Palestinian rights and Palestinian territory compromise : Palestinian rights and Palestinian territory (West Bank and Gaza).

The Accords have effect to these two guiding principles : Israel agreed to return "every inch" of Sinaï, to dismantle the seventeen settlements it had established on Egyptian territory and accepted the departure of its settlers (Article I (2) of the Treaty). The price paid in return was Egyptian acceptance of the Israeli plan for the West Bank and Gaza, a plan which meant Israel's retention of these territories, its continued subjection of their inhabitants and the permanent exile of the Palestine refugees.

Accordingly, the beautiful and deceptive rhetoric that adorns the preamble of the Accords such as their reference to the Charter of the U.N. and accepted norms of international law should be discounted because it merely conceals a sordid deal whereby Egypt would recover Sinai and the Palestinians would pay the price.

Let us now consider briefly the provisions of the Accords, first as to Sinaï, and then as to the West Bank and Gaza.

PROVISIONS OF THE ACCORDS WITH REGARD TO SINAI

Regarding Sinaï, the Accords provided for the termination of the state of war between Egypt and Israel and for the withdrawal of the Israeli armed forces and civilians from Sinaï behind the international boundary between Egypt and mandated Palestine ; such withdrawal to be phased over and to be completed within three years from the date of ratification of the Treaty of Peace.

The only provisions with respect to Sinaï that need retain our attention from the standpoint of international law are those that relate to the postponement of the Israeli withdrawal and the permanent limitations imposed upon Egypt's sovereignty. As to the latter, although the Peace Treaty provides that upon withdrawal of Israeli forces Egypt will resume the exercise of its full sovereignty over Sinaï (Article I), Egypt has accepted restrictions on its sovereignty in the form of a limitation of its armed forces in Sinai, as well as a limitation on its aerial and naval operations along certain zones of Sinaï (Annex I). For good measure, Israel accepted a limitation of its forces in a narrow zone along the international frontier of Palestine. These conditions have no time-limit, save that the Treaty provides that they may be reviewed and amended by mutual agreement of the parties.

The question might be considered – academically – whether these

conditions are valid. The postponement of Israel's complete withdrawal from Sinai for three years is of doubtful legality. Such a provision allows Israel to use pressure on Egypt to extort further concessions – as it has already done – with respect to the supply of crude oil produced in Sinai, or even to mollify its attitude in the autonomy negotiations. Israel has threatened on more than one occasion to postpone still further or even to suspend its withdrawal from Sinai if its conditions were not met.

The postponement of complete Israeli withdrawal for a period of three years is also not in consonance with Security Council Resolution 242 of 1967 which called for Israel's withdrawal from territories occupied in the recent conflict. This Resolution envisaged no delay for Israel's withdrawal, nor its imposition of conditions before effecting such a withdrawal.

Again, these conditions can be considered of doubtful validity as being made under duress. Quincy Wright has condemned Israel's claim to remain in occupation of Arab territories until it secures a peace treaty. "One cannot say", he observed, "that negotiations over territory are fair where one or the other party occupies most of it... modern international law, affirmed by the Stimson Doctrine, holds that a treaty made under duress against the state is invalid".[1] The principle that a treaty is void if its conclusion has been procured by the threat or the use of force was adopted by the International Law Commission at Vienna in 1969 (Article 52 of the Vienna Convention on the Law of Treaties 1969).

The argument as to the invalidity of these conditions is further strengthened by the consideration that Israel's seizure of Sinai in 1967 was an act of aggression.[2] Any condition attached by the aggressor to his withdrawal is contrary to international law. This view was upheld by President Eisenhower, in 1967, when he insisted upon Israel's unconditional withdrawal from Sinai and Gaza. President Eisenhower said that if a nation which attacked and occupied foreign territory in the face of U.N. disapproval were allowed to impose conditions on its withdrawal, this would be tantamount to turning back the clock of international order.[3]

The case for nullity by reason of pressure by an aggressor is somewhat weakened, however, by the effusive embracing between Sadat and Begin on the occasion of the signature of the Accords. In any event, Sinai is Egyptian territory and Egypt is master of its own destiny and territory.

But it is not master of the destiny and of the territory of the Palestinians, as we shall see later.

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1. *American Journal of International Law*, pp. 74 and 78, 1970.

2. Henry Cattan, *Palestine and International Law*, 2nd ed. pp. 167 *et seq.*, Longman, 1976.

3. Dwight D. Eisenhower, *Waging Peace 1956-1961*, p. 188, Doubleday, 1965.

PROVISIONS OF THE ACCORDS WITH REGARD TO THE WEST BANK AND GAZA

Let us first examine succinctly the provisions of the Accords with respect to the West Bank and Gaza.

It is necessary to remark that the expression "West Bank" is a barbaric, inaccurate and unhistorical description of that part of Palestine which together with Gaza escaped Israeli military occupation in 1948. Having come under the military occupation of Transjordan, it was unfortunately given the name of "West Bank of the Jordan" in order to emphasize its dependence on Transjordan.

The provisions of the Accords with respect to the West Bank and Gaza were set out in the first Camp David Agreement as supplemented in a letter attached to the Treaty of Peace.

The Camp David Agreement is a jumble of confused provisions which mention successively "full autonomy for the inhabitants" of the West Bank and Gaza, "a self-governing authority" described between brackets as an "Administrative Council" whose powers and responsibilities are to be defined by Israel and Egypt, "the final status of the West Bank and Gaza", recognittion of "the legitimate rights of the Palestinians", "withdrawal of Israeli armed forces" and "a redeployment of the remaining Israeli forces into specified security locations". What is absolutely remarkable is that these matters that concern the rights and future of the Palestinians have to be *negotiated* between Israel, Egypt and the US.

It was envisaged that negotiations would be held in three stages between Egypt and Israel and two parties that were not consulted concerning their willingness to participate therein, namely, Jordan and the Palestinians. (These two parties have since declined the invitation to join in the negotiations). It was provided in the letter signed on 26 March 1979 that in the event Jordan decides not to take part in the negotiations, these will be held by Egypt and Israel. The same letter provided that the US. Government will participate fully in all stages of negotiations.

The first stage of the negotiations would take place between Egypt and Israel and would determine transitional arrangements for the West Bank and Gaza for a period not exceeding five years. In order to provide full autonomy to the inhabitants under these arrangements the Israeli military government and its civilian administration will be withdrawn as soon as a self-governing authority has been elected by the inhabitants. Apparently, however, this does not mean a complete withdrawal because it is also provided that there will be a redeployment of the "remaining" Israeli forces into specified security locations. The new arrangements should give due consideration both to the principle of self-government by the inhabitants "and to the legitimate security concerns of the parties involved". Knowing what Israel means by "security" and the use it has

made of it as a pretext for expansion, one can guess what lies behind its "legitimate security concerns".

In the second stage Egypt, Israel and Jordan will agree on the modalities for establishing the elected self-governing authority.

Then in a third stage, when the self-governing authority (Administrative Council) is established, the transitional period of five years will begin. Not later than the third year after the transitional period begins, negotiations will take place to determine the final status of the West Bank and Gaza and its relationship with its neighbours, and to conclude a peace treaty between Israel and Jordan. The negotiations shall be based upon the provisions of Security Council Resolution 242 and will reserve the location of the boundaries and the nature of the security arrangements. The solution from the negotiations must also recognize the legitimate rights of the Palestine people and their just requirements.

The negotiations between Egypt, Israel and the US. regarding the "autonomy" of the Palestinians commenced after ratification of the Peace Treaty and it became apparent from the very first meeting that Israel and Egypt held opposite views with respect to the meaning of "autonomy". Israel considers that the self-government by the Palestinians or their autonomy must be limited to minor administration or municipal matters, excluding the exercise of national rights or any evolution into a sovereign state. In this regard. Israel has the full support of President Carter who despite his crusade for the human rights of other peoples strongly affirmed his opposition to the creation by the Palestinians of a Palestinian state.

In a recent interview with editors, President Carter, who apparently knows best what is in the best interest of the Palestinians, Israel and the Arab States, but not of his own country, declared :

"I am against any creation of a separate Palestinian state. I don't think it would be good for the Palestinians. I don't think it would be good for Israel. I don't think it would be good for the Arab neighbours of such a state."[4]

Thus, both Israel and the USA are opposed to the exercise by the Palestinians of sovereignty or self-determination. In fact, Begin has declared on several occasions that Israel will claim sovereignty over the West Bank and Gaza. And, in order to obliterate their historic character and give them a Jewish colour, he prefers to describe them by the Biblical names of Judea and Samaria. The fact that Jewish rule over Judea and Samaria ended some twenty-five centuries ago does not disturb him in the least. Begin has also made it plain that Israel will not withdraw all its military forces from the West Bank and Gaza.

Egypt does not appear to be in agreement with the Israeli position on autonomy. It seems that it insists on a kind of autonomy for the

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4. *The New York Times*, 11 August 1979.

Palestinians which would enable them to establish a legislative council and to exercise their legitimate rights.

The effect of the autonomy plan would be to place the West Bank and Gaza under an Israeli mandate, similar to the British mandate (1922-1948) but with two differences : first, the British mandate was by essence temporary whereas the Israeli mandate would be permanent ; second, the British mandate was intended to lead the Palestinians to independence – although such objective was not realised except on paper by the British Government's declaration of 1939 regarding the future of Palestine – while the Israeli mandate would mean the enslavement of the Palestinians.

It should be remembered that the plan of autonomy for the Palestinians is an Israeli proposal first made by Begin in December 1977. It was circumscribed by its author within precise limits : restricted local powers for the inhabitants of the occupied territories under Israel's overlordship, continuation of the creation of Israeli settlements and security for the Jews. Can there be any doubt that the Israeli proposal on autonomy is nothing but a sham and a subterfuge designed to throw dust in people's eyes so as to conceal Israel's usurpation of the remaining territory of Palestine ? It is regrettable that the US. has given its support to the Israeli plan and it is much more regrettable that President Sadat, though he may inwardly disapprove of it, should give it his concurrence.

NULLITY OF ACCORDS WITH RESPECT TO THE WEST BANK AND GAZA

We shall now examine the position of the Accords insofar as they concern the West Bank and Gaza which are Palestinian territory, from the standpoint of international law.

The Accords are null and void with respect to the Palestinians and to Palestinian territory on three main grounds : the incompetence of the parties, their infringement on the national rights of the Palestinians and their violation of UN Resolutions.

A. Incompetence of the parties

Neither Israel, nor Egypt, nor the US who have arrogated to themselves the power to decide the destiny of the people of Palestine are competent to do so. They possess no rights whatsoever or any power over the territory of Palestine or over the Palestinians.

First, as to Israel who seized the West Bank and Gaza in 1967. Its status is that of a military occupier. The rights and duties of a military occupier are defined by international law, and in particular, by the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, to which Israel is a party. In a number of Resolutions the UN has affirmed Israel's obligation as a military occupier to respect the principles of international law and the Geneva Convention

with respect to the occupied territories.[5] There exists no rule of international law which confers on a military occupier any power to decide the political and constitutional future of the inhabitants of occupied territories, or the status of such territories. By assuming under the Accords a right to decide these matters and to sit as arbiter over the destinies of the Palestinians, Israel is usurping a power in violation of the law of nations.

Similarly Egypt has no right or capacity to decide on the future of the Palestinians or to barter away their rights. President Sadat claims as an achievement that he is serving the cause of the Palestinians in negotiating with Israel for their autonomy. Whether this is so or not, or whether Sadat is simply serving his own interests to ensure Israel's eventual withdrawal from Sinai will be for history to decide.

One thing, however, is certain. President Sadat is not a guardian over the Palestinians and the fact that he is acting without a mandate from them and even against their will and over their opposition is not evidence of good faith. Even assuming the most favourable interpretation of President Sadat's intentions, the very fact of his acceptance to negotiate with Israel an anachronistic concept of autonomy for the Palestinians in their own country, constitutes a grave violation of their national rights since it questions their full sovereignty over their homeland. It is ironic that the original inhabitants of Palestine whould be granted autonomy by the alien Jewish immigrants who usurped their homeland and it is shameful that an Arab statesman should participate in negotiations to that effect.

As regards the US Government, one cannot see on what basis and by what right it purports to negotiate with Israel and Egypt, the measure of autonomy to be enjoyed by the Palestinians. The US Government has as much a right to decide on the future of the Palestinians and their system of government as the Palestinians have a right to decide on the future of US citizens and their system of government.

The conclusion is unavoidable that from the legal standpoint all three parties that have concluded the Accords were neither qualified nor competent to lay down any binding provisions with respect to Palestinian territory or with respect to the Palestinians with the consequence that such Accords are, in this respect, completely null and void and with no effect. The Palestinians are masters of their own destiny and no state possesses the power to impose its will on them, to decide their future or to prevent the exercise of their sovereignty.

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5. The last in date of such Resolutions is General Assembly Resolution 33/113 dated 18 December 1978. In this Resolution the General Assembly expressed grave anxiety over the present serious situation in the occupied Arab territories resulting from the continued Israeli occupation, declared the measures taken by Israel, as the occupying power, to have no legal validity and condemned Israel's violations of the Geneve Convention of 12 August 1949.

B. Infringement of the national rights of the Palestinians

The second cause of nullity of Accords is their infringement of the national rights of the Palestinians, including their rights of sovereignty.

In Order to appreciate the gravity of the infringement, it is appropriate to review the rights which the Palestinians enjoyed since the last century.

In Turkish times, the inhabitants of Palestine were Turkish citizens and enjoyed equal rights with other Arab or Turkish citizens of the Turkish Empire. The principle of equality of rights between Turkish citizens, regardless of race, creed or religion was affirmed by the Turkish Constitution of 23 December 1876. This Constitution provided for a cabinet, an elected parliament and proportional representation. There were 60 Arab deputies including several Palestinians in the Chamber of Deputies which comprised 275 members. Many rose to high executive, legislative and administrative positions :

"Whatever a man's race or birthplace, he was eligible for government service and could attain the highest office... while the bulk of senior officials were Turks, Syrian and Palestinian townsmen gained by their innate keenness of intellect an appreciable number of senior posts."[6]

The Palestinians, therefore, enjoyed with the Turks complete political independence and equality and shared with the Turks the right to sovereignty over the various territories comprised within the Turkish Empire, regardless of whether such territories were Turkish or Arab provinces.

In 1917 Palestine was detached *de facto* from Turkey as a result of the British military occupation of the country on behalf of the Allied Powers during the First World War. But the British occupation did not confer sovereignty on the occupying power, nor take away the sovereignty of the inhabitants because the declared objective of the Allied Powers was not the acquisition of territory.

The Covenant of the League of Nations, approved by the Paris Peace Conference on 28 April 1919, and incorporated into the Treaty of Versailles on 28 June 1919, also discarded any idea of annexation of the territories seized from Turkey. Article 22 of the Covenant envisaged a new status for such territories. Article 22 stated :

"Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a mandatory until such time as they are able to stand alone."

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6. George E. Kirk, *A Short History of the Middle East*, pp. 59-60, Methuen, London, 1948.

The legal effect under international law of the detachment of Palestine from the Turkish Empire and of the recognition of its people as an independent nation by Article 22 was to make of this country a separate and independent state in which was vested legal sovereignty over the territory of Palestine.

In 1922 Great Britain was granted a mandate over Palestine in order to give effect to the provisions of Article 22 of the Covenant of the League of Nations, that is, to lead the country to complete independence, and also, under Zionist influence, to put into effect the Balfour declaration of 2 November 1917 for the establishment in Palestine of a national home – not a state – for the Jewish people.

The grant of a mandate over Palestine did not divest the Palestinians of their sovereignty over their country. [7] The view that sovereignty over a mandated territory lies in its inhabitants received the support of several jurists, and was summarized by Van Rees, Vice-President of the Permanent Mandates Commission, as follows :

"Finally, a last group of authors – divided into two units – the only group who took the principle of non-annexation adopted by the Peace Conference, into consideration, affirms that the authors of the Pact wanted to keep in suspense either the sovereignty over the territories under mandate for a period equal to the length of the respective mandates (Lee D. Campbell, The Mandate for Mesopotamia and the principle of trusteeship in English law, p. 19 ; A. Mendelssohn Bartholdi, Les Mandats Africains (Translation), archiv für Politic and Geschichto, Hamburg, 1925) or else the practicing of sovereign powers, with which certain nations, in their quality of tutors, were provisionally charged. According to this point of view, sovereignty itself is detained, ever since the abandoning of ancient Empires, by the communities and the native populations of the different territories. In other words, the ancient Empires having abandoned their rights and titles to other Powers the sovereignty which belongs to these various peoples and communities until their submission to Germany and Turkey, is automatically reborn, on account of the foresaid abandon" (Paul Pic. Le régime des mandats d'après le Traité de Versailles, RGDIP Paris, 1923, P. 14; Albert Millot, les Mandat internationaux, Paris, 1924, p. 114-118 ; J. Stoyanovsky, La Théorie Générale des Mandats Internationaux, Paris, p. 83 et 86)[8]

The Resolution of the General Assembly of the UN of 29 November 1947 which recommended the termination of the mandate, the partition of Palestine and the creation of an Arab State and a Jewish State was an encroachment on the sovereignty of the people of Palestine.[9] Although

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7. Henry Cattan, pp. 112-121.

8. D.F.W. Van Rees, *Les Mandats Internationaux*, p. 20, Rousseau, Paris, 1927.

9. Henry Cattan, p. 78.

the General Assembly recognized the sovereignty of the people of Palestine over its territory, it restricted it abusively to 43 % of the area of Palestine and allotted to the Jewish State 57% of the total area of the country. The fact of the occupation by Israel of a part of Palestine in 1948 and of the whole country in 1967 did not give it any right to sovereignty. Israel's status is that of a military occupier. It has not acquired sovereignty over the territory allocated to the Jewish State by the Partition Resolution since partition did not receive the assent of the Palestinians, and much less over the territories which it seized in 1948 and 1949 in excess of the geographical limits fixed for the Jewish State.[10]

The right to sovereignty of the Palestinians over Palestine were reaffirmed by the General Assembly of the UN in various Resolutions which we shall mention later.

Those being the national rights of the Palestinians which they have not lost, but have only been deprived of their exercise, as in the case of the Poles between 1795 and 1919 or of the Ethiopians in 1936 when their country was seized and annexed by Italy, it seems preposterous for three outside powers to negotiate between them the quantum of rights to be accorded to the Palestinians. It is irrelevant whether the rights to be accorded to the Palestinians under the accords are those that Begin is willing to concede, or those that Sadat is claiming because the very idea itself of granting the Palestinians autonomy suggests or implies that they are just emerging from a barbaric stage when, in fact, they enjoy a level of culture and civilisation as high, if not higher, as that enjoyed by those who want to confer on them the benefits of autonomy. Granting autonomy to the Palestinians is both an insult and a retrograde step which will put them one century behind. The Palestinians are in no need of being granted autonomy in their own country over which they are and have always been sovereign. All that is needed is the withdrawal of the aggressor, such withdrawal being required by the Charter, international law and the Resolutions of the UN. Such a withdrawal will enable the Palestinians to exercise their right of sovereignty over their country.

Hence, apart from the question of the incompetence of Israel, Egypt and the US to decide the fate of the Palestinians, the Accords infringe their national and inalienable rights and for that reason also are null and void and of no effect.

C. Violation of UN Resolutions

The third ground of nullity of the Accords is their violation of UN Resolutions. The Accords are in direct conflict with UN Resolutions that have delimited the territories of the Arab State, the Jewish State and the

10. Henry Cattan, pp. 126-130.

corpus separatum of Jerusalem, called for Israel's withdrawal from Arab territories occupied in 1967, reaffirmed the national rights of the Palestinians and recommended the repatriation of the Palestine refugees.

(1) Resolutions that have delimited territory

Resolution 181 (II) adopted by the General Assembly on 19 November 1947 delimited the territories of the Arab State, the Jewish State and the *corpus separatum* of Jerusalem. This Resolution was never abrogated and it was on its basis that the Jews of Palestine proclaimed an independent state in 1948. It is significant to observe that the proclamation of independence did not indicate the boundaries of the state, no doubt in order to expand them. This the Israelis did in 1948 and 1949 when during the war which then broke out they seized the larger part of the area of the proposed Arab State thereby expanding the territory allocated by the UN for the Jewish State from 57 % of the total area of Palestine to 80% of the country. In addition, the Israelis seized the larger part of the *corpus separatum* of Jerusalem despite its internationalization by the UN. Not only did Israel then occupy these additional areas but it annexed them as its own territory.

It is axiomatic in the law of nations that no state can acquire title to territory by force. Although, this principle was relied upon by the Security Council in 1967 in its Resolution 242 and was invoked in a number of other Resolutions,[11] yet the principle existed prior to 1967 and prevented the acquisition by Israel of any legal title to the additional territories it had seized and annexed. In this regard, it might be observed that in 1949 Israel was admitted to membership of the UN only after that the General Assembly recalled "its Resolutions of 29 November 1947 and 11 December 1948" and took note of "the declarations and explanations made by the representative of the Government of Israel before the *Ad Hoc* Committee in respect of the implementation of the said Resolutions." The Resolutions referred to related to the territorial partition of Palestine, the internationalization of Jerusalem and the repatriation of the Palestine refugees.

True that Israel has been recognised by a number of other states, but recognition does not under international law validate the seizure of territories by Israel in 1948 and 1949 in excess of the areas designated for the Jewish State by the General Assembly in 1947. As an example among many, in 1936 a large number of states accorded *de facto* and *de jure* recognition to Italy's annexation of Ethiopia, but such recognition did not legalize Italy's annexation of Ethiopian territory nor vest Italy

11. See S.C. Resolutions 252 of 21 May 1968, 267 of 3 July 1969, 271 of 15 September 1969, 298 of 25 September 1971 and G.A. Resolutions 2628 of 4 November 1979, 2799 of 13 December 1971, 2949 of 8 December 1972 and 32/20 of 25 November 1977.

with title over such territory. Recognition by other states does not remove the vice with the which an occupation is tainted.[12]

Of all states, Egypt was the first and only one to recognize the sovereignty and territorial integrity of Israel. Such recognition was made without any reservations concerning the additional territories seized and annexed by Israel in 1948, 1949 and 1967 including the *corpus separatum* of Jerusalem. Article III of the Egyptian-Israeli Treaty of Peace provides that the Parties "recognize and will respect each other's sovereignty, territorial integrity and political independence". This meant that Egypt recognized Israel's "territorial integrity" which, in Israel's estimation, included the territories seized in 1948 and 1949 in excess of the partition resolution, as well as the New City of Jerusalem annexed in 1950 and the Old City annexed in 1967. President Sadat has declared on several occasions that he considers "East Jerusalem", that is the Old City, as part of the West Bank and subject to the autonomy negotiations, but he made no reservations in the Treaty in this regard whether in respect of the New City or the Old City.

Egypt's attitude in this matter stands in contrast with the position taken by almost all other states who have refused, since 1948, to accept Israel's annexation of the New City in 1950 *or* its annexation of the Old City of Jerusalem in 1967, on the grounds that annexation violates the international status of Jerusalem as laid down in 1947.[13] In consequence, all those states have refused Israel's insistent requests to transfer their embassies from Tel-Aviv to Jerusalem. It goes without saying that Egypt's recognition of the territorial integrity of Israel cannot give it title either as regards the territories it seized in excess of its boundaries as defined by the UN, or affect the legal status of Jersusalem.

(2) Resolutions that have called for Israel's withdrawal from Arab territories occupied in 1967

The Accords envisage a complete Israeli withdrawal from Egyptian territory within a period of three years but none from the Palestinian territory described as the West Bank and Gaza or from Syrian territory occupied in 1967. This contravenes Security Council Resolution 242 (1967) and a number of subsequent Resolutions, both of the General Assembly and the Security Council, that have called for Israel's withdrawal from territories occupied in June 1967. The Accords envisage the continuance of Israeli occupation of the West Bank and Gaza, at least during the period of the negotiations on autonomy, which are planned

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12. See discussion and authorities in Henry Cattan, pp. 100-103.

13. It is significant to observe that the international status of Jerusalem was reaffirmed by the General Assembly after Israel's seizure of part of the City in its Resolution 194 (III) of 11 December 1948 and its Resolution 303 (IV) of 9 December 1949 by the General Assembly.

for a period of several years. Moreover such occupation could be indefinite by reason of the right given by the Accords to Israel to "redeploy" its forces into specified security locations.

(3) Resolutions that have reaffirmed the national rights of the Palestinians

The right of the Palestinians to establish an Arab State in a part of Palestine covering 47 % of its total area was proclaimed by the General Assembly of the UN on 29 November 1947 by its Resolution 181 (II). The General Assembly stated that an independent Arab State shall come into existence in Palestine two months after the evacuation of the armed forces of the mandatory power with boundaries described in the Resolution.

This Arab State did not come into existence, first, because the Palestinians were opposed to the partition of their country, and second, because in the war which erupted in May 1948, the Jews seized the greater part of the area reserved for the Arab State. The area which remained in Arab hands after the War of 1948 did not exceed 20 % of the area of Palestine.

This area of 20 % of Palestine which is described as the West Bank and Gaza was seized by Israel in 1967 and it is in this small morsel of Palestine that the Accords plan to whittle down further the rights of the Palestinians, by subjecting them to a Regime of so-called autonomy.

The Accords then violate the original Resolution of the UN which proclaimed the rights of the Palestinians to establish their own independent state. Moreover, the Accords do not only violate Resolution 181 (II) of 1947 they also conflict with a number of Resolutions adopted by the General Assembly since 1969 that recognized and reaffirmed the national rights of the Palestinians. These Resolutions are briefly mentioned here.

Resolution 2532 (XXIV) of 10 December 1969 reaffirmed the inalienable rights of the Palestinians.

Resolution 2628 (XXV) of 4 November 1970 recognized that respect for the rights of the Palestinians is an indispensable element in the establishment of a just and lasting peace in the Middle East.

Resolution 2787 (XXVI) of 6 December 1971 reaffirmed the inalienable rights, *inter alia*, of the Palestinian people to freedom, equality and self-determination.

Resolution 2949 (XXVII) of 8 December 1972 recognized that respect for the rights of the Palestinians is an indispensable element in the establishment of a just and lasting peace in the Middle East.

Resolution 3089 (XXVIII) of 7 December 1973 expressed once more its grave concern that the people of Palestine has been deprived by Israel from enjoying its inalienable rights and from exercising its rights to self-determination.

Resolution 3236 (XXIX) of 22 November 1974 reaffirmed the

inalienable rights of the Palestinian people in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty.

Resolution 3375 (XXX) of 10 November 1975 requested the Security Council to adopt the necessary measures to enable the Palestinian people to exercise its inalienable rights and called for the participation of the Palestine Liberation Organization in the efforts for peace in peace in the Middle East.

Resolution 32/20 of 25 November 1977 expressed deep concern that the Arab territories occupied since 1967 have continued, for more than ten years, to be under illegal Israeli occupation and that the Palestinian people, after three decades, are still deprived of the exercise of their inalienable rights.

Resolution 33/29 of 7 December 1978 reaffirmed the urgent necessity of the establishment of a just peace, based on full respect for the principles of the Charter of the UN as well as for its Resolutions concerning the problem of the Middle East, including the question of Palestine and declared that a lasting settlement of the Middle East problem must be based on a comprehensive solution, under the auspices of the UN, which takes into account all aspects of the Arab-Israeli conflict, in particular the attainment by the Palestinian people of all its inalienable national rights and the Israeli withdrawal from all the occupied Palestinian and other territories."

The Accords ignore all these U.N. Resolutions and downgrade the rights of the Palestinians to what may be agreed upon under the dubious description of autonomy in negotiations held between Israel, Egypt and the US. In subscribing to the Accords Egypt and the US have reneged on numerous UN Resolutions on Palestinian rights, all voted by Egypt and most having received the support of the US.

(4) Resolutions that have recommended the repatriation of the Palestine refugees

The first UN Resolution which called for the repatriation of the Palestine refugees was adopted by the General Assembly on 11 December 1948. Since then the General Assembly has reaffirmed annually – without result – the right of the Palestinians to return to their homes.

The Accords have completely ignored all those Resolutions and have attempted to substitute a new formula which makes a distinction between the refugees of the 1967 war (over 400.000) and the refugees of the 1948 War (about 1.000.000 then, but who number with natural increase about 2.000.000 today.)

The refugees of 1967 may be repatriated but only subject to Israel's agreement and, therefore, its veto. As to the main bulk of the refugees, namely, those of 1948, there is no provision for their repatriation. The Accords merely state that Israel and Egypt will establish "agreed procedures" for the solution of the refugee problem. It is evident

that the "agreed procedures" imply a right of veto by Israel against the repatriation of the refugees.

The provisions of the Camp David Agreement in this regard are the following :

"During the transitional period, representatives of Egypt, Israel, Jordan and the self-governing authority will constitute a continuing committee to decide by agreement on the modalities of admission of persons displaced from the West Bank and Gaza in 1967... "Egypt and Israel will work with each other and with other interested parties to establish agreed procedures for a prompt, just and permanent implementation of the resolution of the refugee problem."

It is inconceivable that by the Accords Egypt and the US should subscribe to Israel's refusal to repatriate the Palestinian refugees and deny them the most elementary of human rights, the right to return to their homes. By such action they throw over board the numerous UN Resolutions adopted since 1948 and voted by them both.

CONCLUSION

The Egyptian-Israeli Accords are, therefore, null and void and of no effect with respect to Palestinian territory (described as the West Bank and Gaza) or the Palestinians, whether those inhabiting the occupied territories or those living abroad as refugees.

The Palestinians have condemned the Accords. In addition to the Palestinians, a large number of states (40 Islamic States at the Islamic Conference of Rabat on 12 May 1979 and 95 States at the Conference of Non-Aligned Nations at Havana on 9 September 1979) have condemned Israel, Egypt and the US for their abusive assumption of power in attempting to prevent the Palestinians from the exercise of their inalienable right of sovereignty. They branded the Accords as a separate peace and a sell-out by Egypt of the Palestine cause and the interests of Arab States involved in the conflict. They further considered that the Accords constituted a complicity in the continued occupation of Arab territories and a violation of the inalienable rights of the people of Palestine.

All other states have criticized the Accords for by-passing the Palestine question and ignoring the rights of the Palestinians.

Thus the world at large has supported the rule of law and has withheld its approval of the Accords which stand condemned by international law and opinion.

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THE RIGHTS OF THE PALESTINIAN PEOPLE AND THE ILLEGALITY OF ANY ACCORDS STIPULATED WITHOUT THEM

1. Following the complex proliferations of the intricate negotiation machinery set in motion with the Camp David accords, "solutions" are outlined which are in complete contrast with the "legitimate rights" of the Palestinian people, although they are said to be the main factor acting as a condition for the establishment of peace in the Middle East. Indeed, the provisions of the covenants contracted up to now are totally uncompatible with the legal existence of the Palestinian "people", entitled to rights and capacities on the international scene.

Accords and negotiations seem to refer not to an actual, proper juridical subject, but to an anonymous ethnic entity, which is bound, for an indefinite lapse of time, to be dealt with freely by the initiative of other states. A perverted logic seems to rule over that type of logical behaviour, which gives the first place to "safety" at the expense of peace, to force at the expense of law, to the politics of power at the expense of collaboration between people. From that attitude stem dangers threatening the future of the Middle East and peace in the world, and seriously harming the most elementary demands of the international community. Therefore, it is useful to underline the general elements they include to achieve a keen, more complete and more accurate examination of the Palestinian problem and of its implications on the level of international law.

2. In this regard, the first controversial point bears on the specific settlement proposed as concerns the Palestinian question in relation with the principles of common law. This specificity is made up of a series of violations of the general, juridical system and precisely, in the first place, of norms which are to be applied concerning the legal existence of the

Palestinian people. It is therefore an offence against the basic juridical rule of *exclusive regularity*.

As for the general goal of law – the collaboration of each with the lives of all – this criterion entails that there cannot be two contradictory settlements of a single matter, for the same subject, in the same time and space. As regards international law, the above criterion excludes that a state might require, about a single object or a legal relation, two different legal solutions. Thus in that field too, it follows an essential aspect of social relationships, and it takes up the force of *categorie necessity*, since outside of conformity, there can be no settlement, no collaboration, but only trouble and conflict, because of which the general goal is abandoned.

This point of theory applies aptly, as anyone can see, to the current situation in the Middle East : the three governments which have signed the Camp David accords, partners in the successive negotiations, wish to confer on the Palestinian people, a different *status*, which would moreover be seriously deteriorated, compared to the one they are entitled to enjoy according to stipulated provisions, endowed with a general character which they have themselves accepted and subscribed to (United Nations Charter and international Human Rights pacts).

3. Identifying the Palestinian people as a subject by the international law implies as an immediate and necessary consequence, taking into account the legal heritage which must be acknowledged as belonging to them according to accepted norms of law. A central element of this heritage is the right to self-determination. First of all, this right cannot be considered as being different from the one affirmed by authoritative documents and by the current legal praxis, as long, of course, as nobody allows or accepts such a differentiation.

It is also useful to underline that the right to the self-determination of people, defined by texts and international conventions, constitutes a body of norms stemming from historical experience, concluded by the almost simultaneous liberation of several hundred million men belonging to dozens of nations. Indeed, the end of colonialism is linked in a cause-and-effect relationship with the affirmation of the right of self-determination in the theory and practice of the United Nations. It stands as a genuine conquest of civiliazation, ranking among the highest affirmations of human dignity recorded during the 20th century. It has opened the way to freedom and equality for huge masses, whose state of serfdom had survived for over a century and a half the solemn statements of 1789 and even seemed to resist the surge of renewal which World War II brought in its wake.

Before such aspects, it is inaccurate and illogical to state that the right to self-determination is only a moral and political prescription devoid of any constraining efficiency and thus doomed to shatter against the barrier of the "private sphere" of states. Actually, this barrier has been overcome more than once by normal diplomatic means in the

middle of a particular conflict, as in the case of the exception of *domestic jurisdiction* given as a pretext by certain colonial powers, when they needed it. This barrier is bound to fall down, it is not in use any more, it should be set aside by those governments which benefit by it when, once objective data have matured, a contrary pulsion strongly penetrates human awareness. This has been observed with the indomitable, definitive assertion of the anti-colonialist liberation movement.

But a more specifically juridical reason tends to invalidate this argumentation. The objection countered against the general validity of human rights is based on the fact that the United Nations Charter text bearing on these rights (for instance : Preamble, paragraph 2 ; art. 1, par. 3 ; art. 55, par. 5) is considered as uneffective for two reasons : those rights are not defined by their content, and they cannot deduce *aliunde* a maxim to be followed, since there is no world-scale univocal system of presumed values. In the precise case of people's self-determination, this objection does not hold, as long as the common terms not only define exactly the contents of the right it purports to establish, but besides, placing it solemnly as the basis of the two pacts on human rights, is established as the *sine qua non* condition of all the *corpus juris* formed by the Pacts themselves. On the other hand, this basic position expresses a primary legal and systematic demand, since it is totally absurd to affirm that individual human rights and collective liberties can be practised by a people which is neither free nor independent.

However, no one can deny that the norms of self-determination are still far from a complete and immediate coercive nature, which constitutes the necessary connotation of the juridical character of a provision and of the subjective situation which derives from it. But in our field of interest, one should make it clear that, when oppression identifies with the colonial yoke or with any comparable form of dependence, international organisms have already shown their capacity of initiative, and that they had the means of practising the customary sanctions.

The case in question is that of Rhodesia, which freed itself from the colonial yoke under the guidance of a white racist minority. Putting aside the principle of a "private sphere", the United Nations, first by formal acts of condemnation then by economical sanctions, considered that this behaviour did not deserve the concession of independence, and judged it as an illicit action in the true meaning of the term. A principle was thus introduced in international praxis : to effect the self-determination of a people submitted to foreign domination, it is not enough to put a term to this domination, but it is necessary to do it in such a way that for all the people, the genuine enjoyment of fundamental rights and liberties is guaranteed. Thus, a juridical weight has been given to the general conviction that it is impossible to remedy an injustice which is regarded as insufferable by creating a new one. But a precise demand of the international community has also been satisfied, according to which law must be restored where there has been an

arbitrary attempt to establish violence, injustice and the excesses of power.

There is meanwhile no doubt that if a controlled and partial administrative autonomy, such as the one foreseen by separate accords, and above all, the one which results from interpretations given by the Israeli protagonists, is conceded to the Palestinian people, instead of a full and total self-determination, it would be a blow dealt against international law, even if it was temporarily hidden behind the mediation of international institutions.

4. The second (and equally basic) right which must be acknowledged *in toto* as belonging to the Palestinian people regards the territory. First of all, it is obvious that it stands in a causal relationship with the realization of the first right, since self-determination cannot be granted to a people which has no legal control over its own territory. Therefore, if one goes on denying the full juridical disponibility of even only a part of Palestinian territory to the Arabs who live there or who come from that territory, it is equal to denying them, through another bias, the right to self-determination itself, with all the other attendant rights and liberties.

It is surprising, moreover, that such a determination should come from a people which, for centuries, has suffered from being deprived of a territory, which has known and experienced the most terrible consequences of that fact. What is surprising, above all, is that there is no perception of a constant lesson of history, which reveals the weakness of a so-called "safety" based on the negation and the suppression of other people's rights.

Anyhow, one doubtlessly cannot regard as stable and lasting an institutional order which is based on exactly the contrary of what history teaches. When colonial subjection ended, there was a desire of ensuring people from various continents and races the possibility of organizing their own states, by integrating the natural elements of people and territory with the institutional element of sovereignty. Thus, one cannot contend that in such a context, one might tolerate or, worse, consider as ligitimate the behaviour of those who maintain institutional division between a whole people and their territory, which implies the loss of the homeland and of national identity itself.

Moreover, the Palestinian case, where the people are deprived of their territory and scattered among several other states, seems objectively more serious than the fore-mentioned case of Rhodesia. At least, in Rhodesia, the people have been able to maintain an unchanged link with their own territorial base, and to proceed henceforth towards new conquests, on the road to genuine self-determination.

5. Among other human rights which the Palestinian people are still deprived of, one must mention specifically the right to parity of treatment ; for, besides the fundamentally illegal treatment which stems from the negation of rights which we already referred to, one must also under-

line a specific discrimination inflicted to Palestinians who still live inside the Israeli borders.

In that case too, it seems that Israel draws no institutional lesson from highly tragical historical events, although it has a direct memory of them, and from hateful survivals, which turn racial discrimination into an absolutely decisive test to judge politically whether a state is democratic or not If one examines with an objective eye its methods of government, one gets a sorry picture, complete with all the aspects of institutional discrimination. Restrictions as to employment possibilities, especially in education, differences in the scale of wages, discrimination in court procedures, and generally in judiciary administration, restrictions bearing on freedom of movement, with the compulsory use of passes, creation of concentration zones submitted to martial law : with many others, they constitute the far from glorious steps of a deliberate racism which, to be sure, does not contribute to solve the real problems of the country. But the misuse of power by the state has stretched to include unlawful appropriation : one only has to mention the so-called "law of absence", which enabled to appropriate possessions belonging to people who had merely moved inside the state of Israel. Or the refusal to grant any compensation funds to Palestinians who were entitled to it by specific international injunctions (Resolution of General Assembly n. 194 (III), December 11th 1948).

Unfortunately, worse is to come ; the analogy with other situations of blatant and denounced racism extends to the most typical situations of authoritarian repression. Just consider, for instance, how the Army Chief of Staff has been allowed to arrest anybody belonging to the Arab minority, and to hold that person *incommunicado* for as long as a whole year, without having to disclose the motives of this arrestation.

While openly violating a series of liberties and basic human rights, as well as all antiracist norms edicted by the United Nations international community, starting with art. 2 of the Charter as far as the specific convention of December 21st, 1965, Israel still does not take into account the repeated recommendations by which the United Nations insist on the adoption of adequate measures ensuring that the refugees, once repatriated and reinstalled, be treated "without any discrimination in law or in fact" (Res. G.A. n. 394 (V), December 14th 1950).

6. To be sure, the most serious form of discrimination against the Palestinian people consists in denying them the right to be represented on the scene of negotiations which deal with their own destiny.

In that respect too, despite perfectly explicit verbal statements and solemn testimonials, the policy displayed is one of systematic obstruction, which does not testify in favour of the peace-loving attitude of governments which decide on its destiny. Actually, whereas on the international level, the existence of a political representation of the Palestinian people has been recognized since P.L.O. has been endowed with the observer status in the U.N.O., this same organization (P.L.O.) is still denied the right to take an active part in the contractual settlement

of rights and interests of which the represented people is the natural and legitimate beneficiary.

Thus, firstly the general legal principle of the *relativity of treaties* is violated, since it is assumed that the effects of an international agreement are valid for a subject which has been kept outside of the agreement itself. In the second place, the power of settling institutional and territorial provisions on behalf of the Palestinian people is entrusted to foreign governments.

In the third place, the juridical principle of the legitimacy of new constitutional systems established by fact, which has been affirmed during World War II and has gained ground during the last decades (Algerian F.L.N., Liberation movements in the Portuguese colonies), is violated. In the light of this principle – which has been confirmed in an exemplary way by the Italian C.L.N. – the P.L.O. must be considered as an internal protagonist of negotiations on the Palestinian question, as a genuine, effective *altera pars* of the contractual relationship.

If this juridical condition is not fulfilled, negotiations concerning the Palestinian problem are bound to be limited to mere stipulations issued by non-competent subjects, which can bind, neither in law nor in fact the concerned people. In essence, they should be regarded as a diktat, which tends to protract the policy of vexation and abuse followed up to now. They are not liable to bring peace, but only a precarious truce, doomed to aggravate, in the long run, the terms of the conflict.

7. The admission of the P.L.O. to the negotiation table stands, therefore, as the first and foremost measure to be adopted with a view to a genuine solution to the Palestinian problem. The *principle of effectiveness* itself demands it ; this principle is frequently invoked when the issue is examined from the Israeli point of view, but then, no one seems to question how far the evaluation of "objective reality" can justify unilateral attitudes, which sometimes go far beyond the limits of equity and legitimacy.

Time has now come to apply this principle to the opposite face of the coin, where it is necessary to recognize in its full reality a macroscopic violation of human rights, which, in all loyalty, and in the general interest, has to be repaired.

Another demand has to be satisfied : negotiations have to return to the seat of international institutions, the United Nations being certainly the best qualified external protagonist, for negotiations which are so close to the problems of peace and of collaboration between people.

Solving this double deficiency is, in effect, the only road to be followed, so that concerned governments may untie the actual knot of that issue : restitution of their territory to the people, to an extent which shall be recognized as possible by common agreement, and guarantee them, at least as a perspective, a sovereignty, not mystified, but genuine.

AMBASSADOR NGUYEN VAN LUU
General Vice-Secretary of the
Jurists' Association of the Socialist
Republic of Vietnam

In the first part of my intervention, I am going to proceed with the analysis of the basic elements of the American-Israeli-Egyptian treaties, elements which will furnish the basis for the critical appreciation of these treaties, which I will discuss in the second part.

I – BASIC ELEMENTS OF AMERICAN-ISRAELI-EGYPTIAN TREATIES

In our opinion every international treaty involves basic elements which refer firstly to the political interest of the signatory States, or of the region or the world generally, and of their people, and afterwards to the confrontments of these same States placed in the regional or global context of confrontments in general. There is a dialectic bond between confrontment and the different political interest realised on one side or other in every treaty of international law.

1) Firstly, as regards the right to self-determination of the Palestinian people

The preambles to the framework agreement for peace in the Middle East as well as the Peace Treaty between the Arab Republic of Egypt and Israel clearly specify that the peace that these Treaties wish to establish in the Middle East is "based" on the resolutions 242 and 338 of the Security Council.

However, the said resolutions of the Security Council resulting from the 1967 war in the Middle East reflect a confrontment which is not to the advantage of the Arab countries and Palestine as regards Israel. The right to self-determination of the Palestinian people was relegated to the rank of war refugees, in the said resolutions. But the situation has

changed since 1967. The victories of Arab countries and of the Palestinian people in the 1973 war resulted in that the resolution 32/36 of the United Nations General Assembly of 1974 acknowledged the Palestinian peoples' rights to self-determination and national independence. In fact the P.L.O. has been recognized as the only authentic representative of the Palestinian people, by the summits of Arab countries, the O.A.U., the Non-Aligned Countries Movement. The P.L.O. has its representatives in 100 countries and the Status of Observer in the U.N.O. The fact that, neither the Framework Agreements of 1978 nor the Israeli-Egyptian Peace Treaty make reference to the resolution 32/36 of the United Nations General Assembly shows that they want to take a step backwards, to disavow the right of the Palestinian people to self-determination, to ignore the P.L.O. and to erase the historic reality of the very heroic struggle of the Palestinian people who held high for almost fifty years the flag of national Palestinian liberation in the most extremely complex and difficult conditions that the history of peoples' liberation has ever known. That shows up more clearly President Sadat's betrayal as regards the Palestinian people's cause, and the justified reaction of the recent Arab summits in Bagdad which took severe sanctions towards Egypt.

It is fitting to mention on this subject that this deliberate violation of the right to self-determination of the Palestinian people by the 3 signatory countries of the Agreements in question is rendered more evident by the complementary Agreement concerning the establishment of the alleged total autonomy in Cisjordan and in the sector of Gaza where the Palestinians are treated as individuals and not as a people, and where the Israeli forces reserve the right to "redeploy themselves in specified security sites" meaning, the role of constables.

2) I now arrive at the aspiration for peace of the peoples of the region, as it has been treated in the Camp David Agreements.

a) The Camp David Agreements call upon as a basis, "the alleged desire for a long-lasting peace in the region". But in our era, where national independence and peace are indivisible, how can one speak of a possible peace in the Middle East by these Agreements which trample under foot the right of the Palestinian people to self-determination and the national independence of other Arab countries whose lands are occupied by Israel and which legalize as it were, the occupation of the latter.

Here again is to be found the "pax-americana" formula. But the positive international law, demands that true peace is peace on the basis of the respect for the right to self-determination, respect for the right of peoples to national independence.

b) On the other hand, these Agreements claim to be Framework Agreements, namely having universal value for the Middle East. here again the imperialism and the Zionism wish to use the general juridical

notions and forms, without any precise political contents in order to delude the peoples. As regards the notion of peace, in general, we have just given our criticism. As regards the formal notion of Framework-Agreement, it is a case of realizing that it is an abuse of the law to call these Agreements "Framework for all the Middle East", for neither Egypt, Israel nor the United States together have the right to act in the name of the other countries of the Middle East in considering these type of Agreements as framework-agreements.

Luckily, and as it should be, the Middle East peoples were watchful and put their finger on the separated character of these Agreements, the Arab countries inflicted sanctions against this separation of Egypt from the real aspirations for peace of the Middle East peoples. The authentic aspirations for peace of Middle East peoples are indivisible for they have enemies and their common strength lies in their solidarity.

After this brief consideration on the basis of the Camp David Agreements, I now arrive at a general critical appreciation of these Agreements from an international law point of view.

II – GENERAL CRITICAL APPRECIATION

1) Firstly, these Agreements and Treaties are principally in violation with contemporary international law whose sources were exhaustively enumerated in the report by Monique Chemillier Gendreau and Jean Pierre Colin.

2) In the domain of the confrontment which subtends every International Treaty, one witnesses a surrendering by Egypt as regards the demands of American imperialism and of Israel to the prejudice of the solidarity of Arab peoples who have struggled together for almost fifty years and who acquire more each day greater victories on an equal footing with the forces of peace, of national independence and social progress throughout the world.

3) What will be the future of these Agreements ?

It is the problem of the obligatory force of international law. In our opinion, the obligatory force of international law in modern times resides in the strength of peoples who fight for peace, national independence, democracy and social progress. It is that force which is intimately underlying the notion of justice and right in our day.

If that is true, we firmly believe that in spite of the dangerous juridical astuteness of the Camp David Agreements, which increases more the actual stake of war in the Middle East, it is this obligatory force which grows more and more everywhere with time, and will know how to make the Camp David Agreements fail, re-establish the heroic Palestinian people on its land and within its rights to national sovereignty, and liberate the Arab lands occupied by Israel.

Mr. BRANIMIR JANKOVIC,
Professor of International Law at Belgrade University

The subject of this international conference of jurists is, the problematical process of the treaties between Egypt, Israel and the United States signed at Camp David, as regards international law, as well as a critical analysis of the status of the Palestinian people such as it appears in the framework of the agreements in question.

Even while placing ourselves as regards the international law called "classical", that is to say by referring to the well fixed position of positive international law, we notice that the Camp David agreements are null and void.

The secular practise of the States has established a general principle of law, according to which the treaties have effect only on the contracting parties. Effectively, for the third-party States, – still following the same principle – such agreements represent *re inter alios acta*. It is the notion of the relative effect of the treaties according to which a treaty produces rights and obligations only between the contracting parties. That signifies that as a rule an international agreement cannot have either positive or negative effects on a third subject, as it is not concerned by it. *Res inter alios acta nec nocere nec prodesse potest.* The Commission of International Law of the United Nations ranged itself well with this opinion by elaborating the project of a convention on the law of treaties.

As it is well known, the rule in question which is, in other respects one of the foundations of the general law of treaties, takes its distant sources from Roman law. But being a principle of international law, this rule underwent certain transformations in practise. I mean by this that in international law one cannot look for the justification of this principle in the general conception of private law ; it stands in fact on the equally notorious principle of the right of peoples to self-determination and the right to independence.

Thus, both from the classical international law point of view and from the point of view of that which we consider today as international

positive law, the Camp David agreements concerning Palestine, concerning the right of the Palestinian people to self-determination, its right to create an independent State, are and remain null and void.

The Palestinians' right to self-determination has never been applied since the day when the institution of the State of Israel was voted at the United Nations. For, let us remember, the General Assembly had decided even before the accession of this State that the principle of self-determination would be applied equally to Israel and Palestine.

Today, the doctrine of international law as well as international practise, confirms that the way to the acknowledgment of the new States goes through the United Nations. It must be ascertained thus that the agreements which we are analysing are null not only as regards the fundamental principles of international law, but are also in contradiction with the juridical procedure for the acknowledgment of States, as it were, thus, this invalidity is doubly manifested. Finally, the so-called "Palestinian Formula" in the Camp David agreements is summarized in the following manner :

Some of the Palestinian people are promised the realization of a minimal part of their rights on a tiny little plot of their native land ; as well as that, the rights in question are defined badly and remain widely imprecise. Moreover, the promises will not be realized during the years except in the framework of a process called "step by step" where, in addition, a party (Israel) would always have the possibility of blocking every proposition by its "Veto".

According to our optic, we cannot even juridically criticize the way in which the realization of the right of a people to self-determination, would be broached ; that seems impossible seeing as we are facing a political construction conceived as an obstacle to the realization of the peoples' right to self-determination, in the actual case of the Palestinian people. Finally, the precedent of Camp David reveals itself as being absolutely unacceptable not only for the Palestinians, but also for all the other peoples of the world. especially small peoples.

Mr. ZHOUHEIR MIDANI
General Secretary of the Union of
Arab Advocates. President of the Damascus Office.

Before all else, in my capcity as General Secretary of the Union of Arab Advocates, I wish with all sincerity to thank deeply the International Association of Democratic Lawyers, not alone for having taken the initiative in organizing this international Conference, but also, and above all, for having followed with much interest and the greatest attention, the course and development of the events and circumstances concerning the Near East, which led to the signing of the tripartite Agreements of Camp David on September 17th 1978 between the governments of Egypt, America and Israel.

The study which had been proposed to us underlines the invalidity of these agreements on account of their contradiction with the principles of international law.

We can plainly see, facing such a flagrant contradiction how the protagonists of these Agreements, America mainly, under cover of finding a solution agreement, and under the deceptive pretention of finding in this agreement the road to the establishment of a just and long-lasting peace in the Near East, did nothing else, and had wished to aim at nothing else but the rejection by overtaking it, of every solution by the international Community, supposed to have been fair, to impose in its place, an Israeli peace, to the advantage at the same time of the interests of American imperialism in the region.

Such agreements constitute a new and dangerous escalation in the imperialist schemings in opposition to the Arab Nation ; they can thus have no other consequence but to increase the state of stress which weighs down the Near East and creates at the same time the threat of a new world war.

That is why it was quite natural to see all the Arab countries, excluding the only Egyptian government signatory to the said Agreements, shouting with one voice their refusal and their condemnation. The reaction was the same on the part of all formations or associations

struggling for justice and peace throughout the world ; even the countries which were amical or allied to America, as for example the countries of the European Community, could not prevent themselves from proclaiming their reserved position.

Could matters have been otherwise, taking into account the ignoring of the Palestinian people and of its right to live independently and freely on its native land ? It is simply as though this Palestinian people which had been evicted from its houses and from its frontiers had never existed, or no longer existed, while and nevertheless, these agreements are prepared and concluded by others, without its presence, and without it being entitled to give its opinion ; worse still, the agreements which were so praised by their signatories, result in nothing less than the denial of its most elementary rights :

– its right to return to its native land,

– its right to self-determination,

– its right to constitute a free and independent state, in short, the plain denial of a whole people, and the solution to the Palestinian problem by the easiest and quickest way : that of the erasure of the Palestinian people from the existence register.

Such is the first and the biggest object of criticism to which the said Agreements expose themselves ; but many other criticisms, one just as a strong as another, appear and are multiplied as the careful examination of the details of the articles progresses.

May I be allowed to mention as a summary, the most important observations to which the Union of Arab Advocates deems it necessary to bring our attention :

1) The Camp David Agreements as well as the Israeli-Egyptian Treaty are in contradiction with all the United Nations decisions and with those of the Security Council which concern the Palestinian problem :

In virtue of the said agreements and treaty, the right of autonomy is misrepresented, being reserved only for the inhabitants of the occupied territories.

2) The said agreements and treaty are also in contradiction with paragraph '3 of decision 338 adopted by the Security Council Security which proposes the invitation to all the parties interested in the Near East conflict, to a Peace Conference which would be held under the care of the United Nations. Where is the Soviet Union in the Camp David Agreements ? Where are the United Nations ? Above all, where are the representatives of the Palestinians, the most concerned party of the conflict ?

3) The said agreements and treaty are in contradiction with all the treaties concluded by Egypt with the other Arab countries and with its engagements in virtue of the said treaties :

a) The Arab Defence Agreement.

b) The Union of Arab Countries Charter.

c) the Military, Cultural and Economic Agreements concluded with Syria, Jordan and Iraq.

d) the constitutional text of the Union of Arab Republics, which deliberately diposes that one of the principle aims of this union is the liberation of the occupied Arab territories, restitution of the rights of the Palestinian people, and the refusal of any transaction or desistance in everything that concerns the Palestinian cause.

However, contrary to these engagements, the new agreements signed by the Egyptian Government return to an acknowledgment and legitimation of the occupation by Israel of the Arab territories of Palestine.

As for those who could have the slightest doubt, or entertain the territories subject to this new regime of administrative autonomy.

What can be understood or concluded from such declarations coming from the responsible Israeli leader, and signatory himself to the Camp David Agreements and to the Peace Treaty with Egypt ? Can we understand something other than that : it is a matter only of a new organization of the Israeli occupation, dedicating and legitimizing the state of fact of the connection of the Arab territories of Palestine to the land of Israel ?

Is that a step towards peace ? Is it not moreso, exactly the opposite as the subsequent events did not fail to prove, and as the Israelis do not cease to illustrate each day by their attacks on South Lebanon and their bomb raids against the Palestinian groups ?

Is that the result that President Sadat promised himself in offering a helping hand to Israel ?

Is that the public engagement which he took in his speech at the Knesset during his first visit to Israel in November 1977 ?

Did he not say in his speech : "I have not come here to conclude a separate peace between Egypt and Israel, because no separate peace can make peace reign in the region, as long as the Palestinian problem has not been resolved."

Here we are two years later. Alas ! President Sadat only succeeded in obtaining a separate peace ; and he accepted it by disengaging himself and by buying himself out of the Palestinian problem which still awaits its settlement.

Did he not also say : Egypt insists on the total withdrawal from all the occupied territories including the Arab city of Jerusalem in the framework of the connection or the expansion ! Jerusalem must remain an open and free city for all the faithful." ?

Alas ! two days before the signing of the Treaty of peace with Egypt, Mister Begin was taking care to clarify things in front of the same Knesset, by declaring without ambiguity that Israel would never withdraw to the 1967 frontiers, and would never consent to withdraw itself from Jerusalem, unified as the Israeli capital, or to restore the Arab part of the city of the Arab sovereignty. He did not fail to add and to repeat again, that he would never allow the constitution of a Palestinian state,

and to explain at the same time that the legitimacy of the Israeli presence throughout the whole Palestinian land, is not the result of the Balfour Document, but from what he called "the historic right of the Jewish people."

The adoption of all these extremist positions and the challenge to all right and to all justice, as well as to all the decisions of the international Community, on Israel's part, were already known, long before the initiative of president Sadat. They have not changed since. Nothing has changed on Israel's side in spite of the alleged agreements or peace treaty that it signed with Egypt and with the guarantee of the United States of America : nor in its military conception, nor in its aggressive attitude, and certainly not in its expansionist ambitions.

Even if nobody can any longer be dupe to the calls for peace issued by Israel ; even if the unfairness and the injustice are too evident, and even flagrant in the Camp David Agreements and the Israeli-Egyptian Treaty, however all men of goodwill must surely unite themselves, to warn against the aggressor, the enemy of peace and the agitator in the international community and to proclaim the condemnation of such agreements or Treaty whose aim is only, in short, to serve the interests of the expansionism and imperialism, in contempt of all justice and in spite of every right.

Mister GIORGIO GAJA,
Dean of the Faculty of Law of Florence

The Camp David agreements and the Treaty of peace between Egypt and Israel are not without ambiguity. Nevertheless, it is evident enough that these texts do not recognize the right of the Palestinian people to self-determination. That is true especially for the transitory period mentioned at point A of the Camp David agreements. Thus as we recalled it before, the agreements and the Treaty only attribute to the Palestinians in Gaza and in Cisjordan, a *"full autonomy"* and only mention a *"self-governing authority (administrative council)* or else an "elected *self-governing authority" (administrative council).* The formation of an independent Palestinian State is certainly not considered. It is thus easy to conclude that the Camp David agreements and the Treaty between Egypt and Israel do not conform to the principle of self-determination of peoples, such as it was applied to the Palestinian people by the United Nations General Assembly.

If we admit that the principle of the right of peoples to self-determination constitutes henceforth a rule of *jus cogens,* it would also have to be concluded that the party to the agreements and to the Treaty concerning Gaza and Cisjordan is not valid on account of it being in conflict with such a rule. We could not confirm the validity of the agreements and of the Treaty by saying that they represent for the Palestinian people, an improvement, although not very marked, as regards its present situation. These texts in fact consider the putting into place of a regime which, while not conforming to the right of the Palestinian people to self-determination, represents an obstacle in the realization fo this right, at least during the transitory period foreseen by the Camp David agreements. Any more favourable evolution for the Palestinian people is postponed by the Treaty till the end of the transitory period.

According to article 44, paragraph 5, of the Vienna Convention the Agreements and the Treaty were to be struck by a total invalidity. Even the part of the the Treaty concerning the withdrawal of the Israeli

forces would not be valid. It can be doubted, nevertheless, that the principle of the indivisibility of the dispositions of a treaty in the case where one of them is in conflict with an imperative rule of international law, should have become a principle of general international law (see, among others, the remarks of ROZAKIS, *The Concept of Jus Cogens in the Law of Treaties*, 1976, p.p. 125-126). The total invalidity of a treaty could, effectively, not contribute in any way to the application of the imperative rule. It could even be an obstacle to at least the partial application of – the same or another –, imperative rule. Such is the case namely of the Treaty between Egypt and Israel, as the withdrawal of the Israeli forces foreseen by article one, would allow a result to be given to the principle of respect of the territorial integrity of the States.

Whatever shall be the solution to the question of the validity of the Camp David agreements and of the Treaty between Egypt and Israel, these texts contribute to making the formation of a Palestinian State in Gaza and in Cisjordan a political objective for the Organization for the Liberation of Palestine. One must wonder if the formation of such a state would permit the conclusion that the Palestinian people exercised its right to self-determination.

In the general Assembly's motions, the specification of the relation between the right of the Palestinian people to self-determination, on the one hand, has always been avoided. It could be doubted that the lack of precision in this respect replies again to reasons of valid political opportunities. On the juridical level, to define the consequences of the principle of self-determination in Palestine, it is evidently essential to indicate what is meant by Palestinian people. Do we consider all the population of Palestine such as it had been demarcated in the time of the mandate ? If so, at what date ? Do we refer to the only ethnical Arab population ? Should we take the immigrations into account, and in the affirmative, to what extent ? Should we say, on the contrary, that in Palestine there are now two peoples, who have both the right to self-determination ?

The reply to these questions would not only allow us to indicate which is the Palestinian people who should be able to choose its political status and establish, in consequence, if a sufficient part of this people participates in the choice. The same reply would give also the possibility to see to what extent the principle of the self-determination of peoples would be realized by the effect of the formation of a Palestinian State in Gaza and Cisjordan. It would not only be a question of specifying if this principle would be realized or not in the "full" way in which motion 33-28 of the General Assembly considers. We could, effectively even doubt that it will be realized if the territorial community of the new state contained only a small part of the people who were to have the right to self-determination.

The question of the definition of the right of the Palestinian people to self-determination as regards the existence of the State of Israel is without doubt not easy. I will limit myself to saying, for the moment, that in my opinion it should become the central point of our debate.

Mr. IBRAHIMA FALL
Dean of the Faculty of Juridical and Economic Science at the University of Dakar.

I would like to add my modest contribution to this debate, by raising two questions.

The first one concerns what seems to me to be a paradox of the American-Israeli-Egyptian treaty.

The second one concerns more precisely the question of the self-determination of the Palestinian people.

As a matter of fact it seems to me that a paradox exists on the inside, in the very heart of the treaty, because of the opposition between the deliberated intention of Israel and Egypt and the real wish manifested throughout the articles.

At the end of the preamble, Egypt and Israel are convinced that the conclusion of a peace treaty between Egypt and Israel is an important step in the search for a global peace in the region, to arrive at a settlement of the Israeli-Arab conflict under all its aspects.

But, what do we notice ?

The articles which follow the preamble, far from registering itself in this spirit of preparation for peace, are constitutive of an accomplished fact which, in a way, threatens the peace and the international security.

There is at first an acknowledgment of Israel's frontiers such as was stipulated in article 3. As a matter of fact, it is said : the parties acknowledge and will respect their sovereignty, territorial integrity and respective political independence. And the territorial integrity of Israel, is understood here in the way in which Israel understands its integrity, for no distinct reference is made to the lines, the international frontiers of Israel while the Egyptian frontier alone is specified. In addition, the question of the status of Gaza has not been straightened out, being a question which is postponed till later and there are strong chances that, in the same way as for Jerusalem, like as for Cisjordan, this belt of Gaza will finally fall into the hands of Israel. Another serious fact which mortgages the future, is that the Israeli-Egyptian treaty is an example of

separate peace, when the idea has always prevailed that peace, to be valid in the Near East, must be global, just and lasting.

Finally, the treaty literally mortgages the right of peoples to self-determination and more specifically, the right of the Palestinian people to self-determination. From this point of view the reference to the status of Gaza, to the status of Cisjordan, to the alleged autonomy, are many indications of the willingness both of Egypt and Israel to deny the right of the Palestinian people to freely determine their future.

Another example : the treaty constitutes a stipulation for others especially for states such as Jordan. Finally there is also the disposition of article 5 Paragraph 1 relative precisely to the Suez Gulf. The parties consider article 5 Paragraph 2 the Tiran strait and the Gulf of Akaba as being international waterways open to all the Nations for the freedom of navigation, which should not be impeded or suspended.

And the parties also refer themselves deliberately to the Convention of Constantinople of 1888 and when we know that one of the most important moments of the Egyptian revolution was the nationalization of the Suez Canal, that one of the most pertinent actions conducted by the Arab States was, not to consider the Tiran Strait and the Gulf of Akaba as being international waterways and that this problem, like that of other waterways finds itself subject for many years and without a solution, to the United Nations' Conference on the sea right, we think we are dreaming on seeing Egyptian jurists repudiate their past and take out a mortgage on the future, by declaring the strait of Tiran and the Gulf of Akaba as being international waterways where the free circulation cannot be impeded or suspended.

May I be permitted to conclude on this first point saying that this paradoxe which has been raised, is finally not isolated, in this general question on the Near East.

Indeed, formerly one spoke of the necessity of assuring a native land for the Jews. Today there is such an upheaval that we talk only of the question of assuring a native land for the Palestinians. Formerly one did not want to acknowledge Israel, today it is Israel who does not want to acknowledge the P.L.O.

Formerly Israel was considered as an instrument of disturbance of the peace and of international security of safe and acknowledged frontiers. There is a complete, particularly serious reversal of the situation.

Second point : the question of the right of the Palestinian people. I think that it would perhaps be interesting to question oneself on the real place that the Israeli-Egyptian agreements made for this right of the Palestinian people.

Indeed, the agreement clearly specifies that it is founded on the willingness of the states to respect human rights. In article 7 of the agreement intervening after the treaty and entitled "Protocol concerning the Israeli withdrawal and security dispositions", it is said "the parties assert their engagement in respecting and observing the human rights and the fundamental liberties of all". Now, the first of human rights is

undeniably the right for all peoples to self-determination.

To be sure, the treaty claims to reserve and ratify these rights. In this way, it is said that the Palestinians could be part of the delegations of Egypt, Jordan or other states called upon to participate in the peace process ; and an autonomy is also promised to these Palestinians. But when we examine the respective places thus made for the Palestinians, we realize that as regards the integration of the Palestinians into the Egyptian, Jordanian or generally Arab delegations, the consent of both the Arab State and Israel is necessary. Which means in fact that these Palestinians will be chosen. As regards the autonomy, we have lengthily discussed the opposability of the notion in international law. Maybe it must simply be said that there exists two types of autonomy, an internal law autonomy and an international law autonomy.

The concept of autonomy applied to international law is applicable to situations of emancipation of colonial peoples and territories under tutelage. Under this angle the autonomy preserves its juridical reality, contrary to what has been upheld here and an expression of it has been seen through the Angolan affair or the recent Rhodesian affair. Zwinbabwee with the London conference. But can one assimilate the situation in Palestine with the situation of emancipation of colonial peoples and territories ? A priori no, for Palestine has even ceased being a mandate. However, such as it is used, autonomy is more ralated to the autonomy of international law.

In other terms, the word autonomy seems to me to be the word which reveals the real situation in which the Palestinian people are to be found. It is a matter of a dominated people, subject to a subjugation if not identical, at least comparable with that of colonized peoples. It seems to me important thus to confirm the right for every subjugated people to have recourse to all the means including that of force, to retrieve its right to self-determination.

We could also wonder if autonomy is not of an internal character. In that case it would involve Israel and Egypt considering themselves as powerful protectors or again that the autonomy in question should be of a purely administrative character for, considered in the internal law framework, the autonomy would not be able to issue forth on a secession. When we examine closely, and I don't want to delay here, the dispositions of the treaty, we notice in fact that of autonomy, only the name exists, in the sense that it concerns the autonomy of the inhabitants, it is expressly said, and not the autonomy of the territory.

And, in any case, it is not a matter for Israel, and even less for Egypt, to grant or to acknowledge autonomy to the Palestinian people, for this people has fought not for autonomy but for independence and for their State.

We find ourselves on the whole, in front of a sort of Israeli-Egyptian accomplished fact over Palestine, and it concerns an agreement between dominant countries. Both Israel and Egypt find themselves in

exactly the same situation, for they both contribute to the oppression of the Palestinian people.

Mr. ROBERT DOSSOU
Dean of the Faculty of Law at Cotonou

The Camp David agreements and their consequences constitute indeed the violation of a certain number of rules of public international law but it seems to me that we must analyse globally these violations because they are so serious, that it can be considered that the three States which contributed to the elaboration of these conventions make public international law regress seriously.

Indeed if we consider the evolution undergone by public international law since the 19th century, especially since the agreements of Berlin in 1885 until today, we notice that the principle of the right of peoples to self-determination has become one of the strongest principles of contemporary public international law. That goes as far as rendering the colonial fact illegal. This colonial fact which, in the years of 1885, was considered as a legal fact has today become (since the res. 1314 of the General Assembly of the U.N.O., the charter of rights and duties of states and the various pacts on human rights), an illicit fact as regards public international law. That is why I consider that there must be an extreme firmness in the opposition to be brought against the Camp David agreements, and against the subsequent agreements, because the three States who participated in these agreements have started a practise on the international scene which tends to bring the acquisitions of the public international law backwards. It is thus essential to continue with all possible firmness the opposition to these agreements in order that they will not in any case serve as a precedent in the elaboration of public international law.

Mr. BENCHINKH
Professor at the Faculty of Algiers

The organization of the debates at which we are lucky to be able to assist today, gives us the opportunity to contribute to the legitimate struggle of the Palestinian people, and to the struggle of its legitimate representative, the only legitimate representative of the Palestinian people.

I believe that on the basis of the problem the method which has been used in the introductive report is the pertinent and rich method which effectively allows one to speak judiciously about the treaties.

In other words, while I feared that these treaties would be approached in a not very classical manner which would consist in granting a privilege to the illegal aspect of these treaties on the grounds of the idea that States cannot negotiate and stipulate for others, which apparently is effectively the important aspect of these treaties and thus to conclude rapidly in this way to the illegality of the Camp Daivd treaties, while I feared that, on the contrary, the reporters, and I think that was sensible, insisted on the fact that these treaties constitute a violation of the principle of peoples rights to self-determination.

But a similar situation can present various forms of effectivity and whatever may be the oppressive effectiveness of which we can accredit the State of Israel on the Palestinian territory, the Palestinian people have shown by its political organization, its military organization, its presence in different parts of Palestinian territory, its different political or armed demonstrations that there was an effectiveness tending towards the liberation of Palestine, expressed by the intermediary of the P.L.O.

On the other hand, it can also be noticed that there can effectively be, according to the case, contradiction between the rights of the Israeli people and the rights of the Palestinian people, according to the definition that is given of the people or the peoples concerned.

On this matter we can ask ourselves the question : can a mixture of artificially constituted populations form a people at an historically determined period ? And can we speak of a people in the XX century, on the grounds of a religious criterion alone ?

I think that the replies to these questions could already constitute efforts to clarify the problems which have been raised here. Moreover and in the same context, it seems to me that there are peoples who are governed by states of a reactionary nature and peoples who are governed by more or less democratic states. And this is important insofar as the expression of peoples on the international level is made often only by the intermediary of their States especially when the political organization of these peoples has not reached the point permitting them to broadcast this expression on a sufficient surface of the international community.

In such a way that if we accept the contemplation of this question and this perspective by prolonging the method and the theoretical reflections of our reporters, we can perhaps say that the contradiction between Jewish and Muslem people, who are to my mind, from the start Arab peoples in Palestine, is above all in reality, a contradiction between the Zionist State of Israel and the democratic lay project of the state of Palestine, and this contradiction can only exacerbate as long as the state which claims to express the demands of the Jewish population in Palestine is a racialist State based on the principle of the denial of the rights of other peoples in the region.

A solution to this contradiction could only be found in a process of free self-determination of all the populations which would include perhaps the creation of various democratic states in this region.

This same analysis based on the nature of the State allows it to be said that the State of Israel because it is Zionist and because it is racialist can only conclude those treaties which deny real possibility for the expression of the right of peoples of the region. It is in this sense thus, that we can integrate the reflections which were made this morning, meaning that the Camp David agreements could only fail to recognize the rights of other peoples of the region and effectively they failed to recognize them. In this context we can, as many speakers did, speak also of the other aspects of international violation which appear on reading the Camp David agreements : the violation of the rule according to which one cannot stipulate for the other states without their consent ; the fact that the camp David agreements are based entirely, (and that is why it is difficult to talk about the partial validity of the Camp David agreements) on the violation of a whole series of international law rules. In a certain way they constitute a bonus for aggressivity and finally, they integrate into the system of international relations, annexation or the right to annexation, even though annexation and the rights which follow from it have already been condemned for a long time by the whole international community.

B. DO THE TREATIES CONSTITUTE AN INTERFERENCE WITH EGYPTIAN SOVEREIGNTY ?

Mr. NORMAN PAECH
Professor at Hamburg University

I would like to make some observations on a subject which I consider as being important enough to be treated here, even if it is not part of the main problem posed by the divided peace betwen Israel and Egypt. I wish to speak of the influence of this Treaty on national Egyptian sovereignty.

Professors Chemillier-Gendreau and Colin, who approached this question in their analysis, consider that the certain concessions consented to by Egypt in respect to Israel, connected with the Israeli withdrawal from the Sinaï peninsula do not interfere with the sovereignty of this country.

The former leaders and members of the Egyptian Revolutionary Council of July 23rd 1952 are of a different opinion ; examining the question from a more specifically political point of view, they see their country and the entire Arab world deprived by Israel in virtue of the Treaty, of their security and enjoying from then on, only a limited sovereignty.

We published these two opinions in Bonn. Unfortunately in our presentation we attibuted by mistake, the thesis of the loss of sovereignty by Egypt, to our colleagues Chemillier-Gendreau and Colin. All those who have read our documents will have immediately rectified it by themselves ; but I would like to benefit from the occasion to excuse ourselves for the mistake.

At all events, this problem of Egyptian sovereignty has not as yet been resolved.

The Treaty of March 26th 1979 mentions a few times the full sovereignty of the parties, especially that of Egypt. If it has seemed necessary to insist on it, it may well be on account of the presence of a source of particular weakness.

Egypt is obliged to divide the peninsula of Sinaï into four zones of security, inside of which its territorial supremacy will be limited. In zone A the armed forces establishments should not exceed 22.000 men, in zone B the military staff will be limited to 4.000 men lightly armed, while in zone C skirting the Israeli frontier as far as Sharm-el-Sheikh, will be admitted only the civil Egyptian police and the U.N.O. armed forces.

These dispositions will be valid not only during the three years of progressive evacuation, but for an unlimited length of time. In my opinion, Israel did not harmonise them with practically any concessions in reward.

The repeated assurance on Israel's part concerning its final maintenance should not make us forget that the occupation of Sinaï in 1967 was an illegal act of aggression as regards international law, not creating any sort of rights for Israel, but creating on the contrary, the obligation of an unconditional withdrawal.

Zone D which Israel is obliged to establish inside its own territory skirting its frontier, can in no way be put on a parallel with the zones A to C. It is much narrower than zone C; the U.N.O. forces will not be admitted inside of those frontiers, only the observers and the naval and aerial units being allowed to operate there, in the fashion of what will be admitted on the inside of zone A for the Egyptian part. Finally, Israel could establish a system of prewarning there, which would only be permitted to Egypt in zone A.

These dispositions are contrary to article 9 of the Appendix to Annex 1, which foresees : "Egypt will recover the practise of its full sovereignty over the evacuated zones of Sinai with the progression of the Israeli withdrawal foreseen by Article I of the present Treaty".

A State which allows one of its neighbours to dictate to it the way in which it should ensure the defense of a third of its territory, and the points where it could eventually station its light troops, and even the placing of its prewarning system, does not practise its sovereignty on the concerned territory. Let us not forget either that Israel is not Monaco or Switzerland and that during the peace pourparlers this country continued its policy of aggression against Lebanon and its illegal colonization of the occupied territories.

We could perhaps say that Egypt made use of its sovereignty to restrain its own territorial supremacy over a part of its territory. But this thesis does not seem to be conform with the present day interpretation of sovereignty, fruit of a particular evolution which I would like to comment briefly here.

In the feudal system, it was the monarch's possessions which gave the essential contents to his sovereignty. The monarch could give certain regions as gifts, or he could sell them or acquire more by inheritance. The inhabitants – the people – were simple commodities sold with the land on which they lived. In the course of the transition to capitalism the land properties were shared between the public and the private domains. The state's jurisdiction could, under these conditions, only be exercised on

lands of public interest, whereas the private owner had the right to use his in his own interest without interference by the State. All of these theories dating from that time, and even those which followed as far as the XXth century, on the nature of sovereignty (Franz V. Liszt, Jeorg Jellinek) are based on the effort to conciliate the interests of the capitalist State as owner of the ensemble with those of the private owners.

In the imperialist era, this effort brought differenciation with it, based on logical arguments, between territorial sovereignty and supremacy which served the interests of imperialism by justifying its expansionist schemes ; it would allow indeed, to demonstrate that even a State which does not have the practical means to practise its authority on its own territory, preserves its sovereignty in spite of this. Such a theory virtually served as a justification to the colonial regimes as well as to regimes born into capitulation, and to foreign military bases.

A particularly instructive example is that of the Hay Villa Treaty, concluded between the United States and Panama, in consideration of which the United States acquire the territorial supremacy over the zone of the Canal "in perpetuity" (art. II) "as though they were the supreme rulers of this territory.. to the total exclusion of the practising by the Republic of Panama, of all comparable sovereign rights, sovereign power or sovereign authority. (art. III). Verdross, for example esteems that, in spite of that, "Panama preserves its territorial sovereignty over the Canal zone" (S. 515). Sovereignty without territorial supremacy, on the whole ; this is at least a formal interpretation.

On the other hand, for a while the thesis according to which territorial sovereignty would signify the exercising by the population of its right to self-determination encounters among the specialists of international law, a more favourable echo. The inhabitants become, in this case, the "owners" of the territory and it is they who determine the form of their sovereignty. It is not only a matter here of how the State organizes the protection and the defense of its territory against the eventual aggressions coming from other States ; this territory is also the land on which takes places the technical process of the formation and the evolution of tribes, of peoples or of nations.

The territory of a State then, considered as a geographic, socio-political, economical and judicial unity is attached, not to the ownership of possessions, but moreso to this right of peoples to self-determination which is one of the fundamental principles of the modern democratic international law.

Also the future of a given territory is inseparable from the guarantee of the right to self-determination of its people and the realization of this right.

The consequence of this recent evolution of the definition of sovereignty have been decisive : the State can no longer dictate its demands relative to its territories as though the latter were a real estate, nor yield its responsabilities, nor restrain or abandon its territorial

supremacy, without the consent of the populations expressed by referendum.

It is the principle which President Wilson underlined already in his speech of July 4th 1918 before the American Congress, when he declared that all the territorial problems should be settled with the agreement of the populations directly concerned.

It is by referring myself to one aspect of this principle that I insist on confirming that Egypt, by signing this Treaty with Israel, acted in contempt of the Palestinians' rights, as it was demonstrated in such a conclusive way by Professors Chemillier-Gendreau and Colin ; but in my opinion it also sacrified a part of its territorial sovereignty.

Allow me, finally to make a last observation on a consequence of the Treaty which, if it seems at first sight to bear an essentially economic character, should also be examined under a juridical aspect for its repercussion on the sovereignty of the country.

If Egypt had been capable of accomplishing the abandon without counter-part of the right of Palestinians to self-determination and the rupture with the interests of all the rest of the Arab world, it is solely because the U.S.A. had promised it, by the complementary agreements signed at Camp David (Afrique-Asie N° 171, 2.10.1978) a sort of "Marshall Plan" comprising many billions of dollars in western economic aid, distributed in the five coming years, the service of about 5.000 American military councillors and deliveries of modern arms. Already, in the framework of the Israeli-Egyptian separate Treaty of September 4th 1975, the United States had signed three complementary agreements foreseeing the sending of 200 American technicians and the creation of an American monitoring station in the Sinai as well as the supplying of two nuclear reactors and arms deliveries. Per contra, Egypt was to open already, in 1975, its economy to the international capital and since 1979 the Israeli capital has, it too, access to the Egyptian markets.

Considering all that we know of the weakness of the economy and of the Egyptian State on the one hand, and the strength of the international capital on the other, it is possible to predict the increasing dependence of this country on all the political and economical levels. We already know a lot of African countries (Zaire or Tchad for example) which on account of their situation of dependence as regards international banking capital – meaning : on I.M.F. and I.B.R.D. – were obliged to sacrifice almost totally their freedom of political action.

We could talk in such cases of a loss of political sovereignty, because of the preservation of a juridical sovereignty which has ceased to be anything more than a formal envelope. In the same fashion Egypt will have to face the problem of erosion caused to its political sovereignty by the separate treaties that it has concluded. The theorists of international law will have furthermore to face the difficult problem of the definition of the situation made to the full juridical sovereignty in the case where, for economic reasons, the fundamental principles of international law such as the sovereign equality of States, would seem to be undermined.

Mr. MANFRED O. HINZ
Professor at the University of Bremen

In the expertise, prepared for the conference by Monique Chemillier-Gendreau and Jean-Pierre Colin we find a very good analysis concerning the right to self-determination of the Palestinian people. What is unfortunately very briefly studied, is the impact of the American-Israeli-Egyptian treaties on Egyptian sovereignty. Finally, nothing more is said than that Egypt was using her sovereignty in concluding the treaties, and using it Egypt did nothing that was not allowed by international law. As I cannot agree with this, I would like to make two remarks : the first, on the problem of sovereignty in general and the second, more particularly on the problem of sovereignty as regards the treaties under discussion.

1. I think the points, which bring us to wonder if the treaties are attacking Egyptian sovereignty, are not in doubt. I may refer insofar only to the statement of the Members of the "Council of Egyptian Revolution" given after the so-called peace treaty. The legally interesting question arising from this is :

– did the Egyptian government handle Egypt's sovereignty politically, meaning, in the legal framework ? or,

– did it give up this sovereignty, thus violating the rules of International Law ?

I suppose, nobody will object, if we start answering the questions by saying that of course,

– sovereignty is, according to the actual understanding, not an absolute position,

– but can under certain circumstances be restricted by the state itself.

The problem starts when we ask :

What could such circumstances be ?

Traditionally,

– we know cases of transfer of sovereignty by giving it to supranational bodies, for instance.

– we know also the case of fusion of states.

– and we know the case, of a state transferring a part of its territory to another state, in order to solve a territorial conflict.

Although all these cases are still important for the actual discussion of sovereignty, I think we have also to see the changing in understanding of sovereignty. The discussion of the right to self-determination, particularly the various definitions of this right in international documents, did also affect the understanding of sovereignty. For this modern understanding, sovereignty is no longer a right connected with the ownership of land, it is a position materially defined by the will of the people living in the region concerned.

2. These general remarks on the changing understanding of sovereignty in International Law lead us to the following :

I take here only one example out of the American-Israeli-Egyptian treaty to show the consequences of this treaty. In the treaty we find that Egyptian borders to be defended have been put back 150 kilometers, according to the treaty they lie 50 kilometers east of the Suez Canal.

What does this mean in the context of our understanding of sovereignty? Egypt accepts by the quoted clause, not only a renunciation of her sovereignty, but she accepts also in favour of the Israeli interests the possibility to intervene more or less freely. The so-called "using" of sovereignty, which our French colleagues are speaking about, means giving up the right of self-defence in favour of the aggressive interests of another state.

Here I see a limit for the legally accepted use of sovereignty. Not respecting it is an illegal misuse of sovereignty.

When we look into more details of the so-called secret Amendments of Camp David, we can consider that :

– Egypt is ready to intervene into the Socialist People's Libyan Arab Jamahiriya with the help of the United States of America,

– also with the help of the United States of America, Egypt is ready to intervene into other Arab countries, objecting Egypt's policy,

– Egypt accepts that the United States of America pressurize the other Arab countries, especially the so-called moderate ones, to support the Camp David line.

This not only means that Egypt is not longer in the line of the Non-Aligned Countries, it also means :

– the violation of the Egyptian sovereignty, because it subjects Egypt's national interests to foreign interests, against those of the Egyptian people,

– the violation of the internationally recognized principles against foreign interventions and settling international conflicts.

The whole complex of the treaties we are discussing during this symposium (Camp David Agreement, the Secret Amendments and the American-Israeli-Egyptian Treaty) is not only intersting as to the military or defence aspect of sovereignty. We have to add also its economic orientation. Egypt has to open its borders for international capital. Egypt will have, after Camp David, more than ever a "good investment cli-

mate." This is exactly what the United Nations, especially the United Nations Conference on Trade and Development resolutions for a new international economic order, will hinder.

When we accept the concept of economic sovereignty, defined by the Charter of the Economic Rights and Duties of States, then we should ask about the consequences of the violation of this concept. At least, Article 52 of the Vienna Convention on Treaties as well as the Declaration about the Prohibition of Military, Political and Economic Pressure in Concluding Treaties should be mentioned in this context.

C. THE NOTION OF PEACE TREATY

Mr. GERHARD STUBY,
Professor at the Faculty of Law
of the Bremen University.
General Secretary of the A.I.J.D.

I – THE ISRAELI-EGYPTIAN TREATY : TREATY OF PEACE OR IMPERIALIST PACT ?

Generally the treaty of peace category is the expression of the conditions accepted by the parties to settle a conflict having led to war. Often – especially in the doctrine of occidental international law – this notion is used in a purely formal conception. It announces the last action that puts an end to a state of war or to a war, regardless of the real guarantees of a permanent situation of peace. Numerous examples can be found of peace treaties which correspond to this formal category, such as the treaty of Brest-Litowsk in 1917/18, the treaty of Versailles in 1919 or even the treaty of Munich in 1938. We know nevertheless that these treaties were anything but peace treaties. We could even say that the treaty of Munich was one of the principal reasons for the Second World War. But according to the classic international law criterion who accepted the right to make war as an emanation of state sovereignty, it was not exactly a mistake to designate these treaties as peace treaties, as the state of non-war was considered as peace.

According to the international law criterion of today we can only indicate as being treaties of peace those which respect the legitimate requirements of the parties in conflict, those which produce international and regional relations such that they serve the interests of the peoples concerned and prevent the acts of aggression by potential aggressors.

It is no longer a matter of the creation of a state of non-war but the creation of a just and real peace.

What we said above is valid for the analysis of a genuine settlement in the Near East : total liberation of the occupied territories by the

Israeli troops (and not only from Sinai), and the fulfilment of the Palestinian people's rights. The juridical analysis by Mrs. Chemillier-Gendreau and Mr. Jean-Pierre Colin showed in a detailed way the degrees of juridical obligations which are fixed by the international law standards for the settlement of each question.

It can be noticed here that the great powers who bear the essential part of the responsibility of world peace, considering their military and economic potential, that is the U.S.S.R. and U.S.A., fell into agreement in ascertaining in a common declaration on October 2nd 1977, that the key to a solution in these regions was : the withdrawal of the Israeli troops from all the territories occupied since 1967 and the guarantee of the legitimate rights for the Palestinian people, the ending of the state of war and the taking up again of normal relations on the basis of a mutual recognition of the principles of sovereignty, of territorial integrity and political independence. By these reasons, the starting point for juridically analysing and criticizing this conflict and the proposals made for its settlement, is clearer than in the other cases.

There exists a very wide-spread opinion, especially in the occidental countries' mass-media, according to which the Washington treaty would guarantee the Israeli withdrawal from Sinai, would grant autonomy and self-government to the Palestinian people, the first step on the way to a Palestinian State and to a general peace with the other Arab States. At first this argument does not seem false. In the treaty itself, the withdrawal of the troops is spoken of, and the granting of autonomy, of the possibility of joining up, with other States etc. also.

Our colleagues' report however makes it appear clearly, as regards the practise of the right of peoples to self-determination, by the Palestinian people, that the treaty does not correspond with the demands of international law either formally (non-participation) or substantially (autonomy in the place of the right of peoples to self-determination).

– But concerning the question of the Israeli troops' withdrawal from Sinai they announce international law reserves. I would like to elaborate the analysis and maybe complete it on some points.

2. THE PRINCIPLE OF PEACE IN CONTEMPORARY INTERNATIONAL LAW

Peace is an essential principle of modern international law. It was not so in the situation before 1945. In classic international law the possibility to make war was a recognized right of each State, and underneath the core of its sovereignty. I cannot elaborate here on all the attempts that were undertaken in the history of international law in order to arrive at a war sanction (cf. for international law literature in G.D.R., G.F.R. Völkerrecht, Teil 1, 1973, Köln, S. 166 ff ; Polak, Zur Dialektik der Staatslehre, Berlin 1963, Se.448 ; Otto Kimminich, Einführung in das Völkerrecht, München 1975, insbesondere S. 57 ff, 67 ff mit weiteren Hinsweisen auch für die internationale Literatur).

The fact remains that we can talk today of an accepted general opinion of the prohibition of the use of force as it is specified in article 2, paragraph 4 of the United Nations Charter and in the declaration 26/25 of 1970 on the principles of international law (XXV the General Assembly of the U.N.O.). In this context we must quote also and especially, the definition of aggression adopted by the U.N.O. General Assembly in 1974 and we must recall the prohibition of all war propaganda by the pacts on the political rights of the citizens in 1966.

As regards the annexation of the Egyptian territory by Israel, the declaration 26/25 can be directly applied. It remarks that the territorial results created by the threat or the use of force should be dealt with according to the classic principle which says that no right can result from a wrongful act. According to this rule one cannot legitimate a violent acquisition of territory by the imperialist thesis of the normative force of effectiveness. The 26/25 declaration says : "It is forbidden to acknowledge as legitimate a land acquisition created by the threat or the use of force." In the various General Assembly resolutions (insbesondere RES. 32/36 and 33/75) and the Security Council (insbesondere 242, 338, 11940), these principles are recognized and applied to the Near East situation and to the Israeli aggression.

In the report by our colleagues Chemillier-Gendreau and Colin, it is said that Israel made real concessions concerning its relation with Egypt : meaning the acknowledgment of the political frontier and the withdrawal of the troops, even if Israel did obtain substantial advantages in return, it must be said concerning that argument, that the frontier which was acknowledged in an international manner in June 1967, remains a political frontier even without Israels' acknowledgment. On the contrary there exists an obligation made on Israel, being a State of the peoples' community, to acknowledge this frontier, if not it would be an aggressor. The effective frontier at the Suez Canal is not juridically a frontier. It is a mere armistice line. It is true that the prohibition of force applies also, according to the declaration of principles, to the armistice lines which have been created by an international treaty.

From a formal point of view it is correct to say that by application of its sovereignty, a State can accept limitations of sovereignty (self-limitations). But on pushing this idea to the extreme, it would be possible to limit the territorial sovereignty as far as the formal renouncing of the territory.

When we interpret the Washington treaty in its general political context, we notice that Egypt deprives itself of all defence forces on the Sinai territory. Israel does not make such concessions on its territory. We could consider such a frontier, strategically open, as an important restriction of the sovereignty, even in a juridical sense. But to make such an ascertation, the first theoretic positions must be clarified. If we agree to look upon peoples' right to self-determination as a theoretic starting point, territory and people are bound very tightly together. In this case the people is not merely an appendage of the territory. On the contrary,

it is the legitimate occupant of the territory. I will recall only the evolution of the international law theories relating to territories. Then the theory of competence established by Kelsen which served as a legitimation for the regime of capitulations was brushed aside by the actual doctrine of international law which takes as its starting point the right of peoples to self-determination.

In any case, in the general political context of the Washington treaty there are sufficient indications to allow to be seen there, at least latent regulations of capitulations. In that case it must be looked upon as null from an international law point of view because the sovereignty of Egypt would be violated (as the application of the Palestinian people's right to self-determination).

Let us come to another aspect : the treaty does not respect the *universality of the principle of peace.* The conflict to be settled is not only an affair between Israel and Egypt. It is not only a question of withdrawing the Israeli troops from Sinai. Even if we admitted that the solutions relating to the withdrawal were in conformity with the international law – there would be other questionable points. Israel indulged in a general aggression against all the peoples of this region. So only a general solution would permit a settlement of this conflict. A comparable historic fact could be remembered, that is, the fascist aggression against the peoples of this region. So only a general solution would permit a settlement of this conflict. A comparable historic fact could be remembered, that is, the fascist aggression against the peoples of Europe and of the whole world. It is the anti-hitlerite coalition which finally created one effective resistance. From that was born the present system of international law standards for the collective defense and safety. A divided solution, that is to say, a solution which overlooks the legitimate interests of the other concerned parties, will inevitably create the shifting of the aggression onto another point – it is the system of communicating vessels. One must apply here the principles developed during the resistance to fascist aggression by the anti-hitlerite coalition, principles which have become since then general categories of international law. It concerns here especially the principle of sovereign equality of all States. That is why no solution should disregard their interests or even be taken "over their head and ears". But it is not alone the States of this region which are concerned, but also the peoples, here the Palestinian people, given that the peoples are subjects of international law even if they have not as yet received a state institutionalization.

The Washington treaty would not conform with general international law, nor with the obligations that Egypt contracted with other States and peoples concerned by the Israeli aggression, except in the case where it would not be a matter of a divided treaty.

It would be conform with international law only in the case where it would respect the sovereignty of the other States and the sovereignty of the Palestinian people.

Certain important passages of the Washington treaty themselves

underline the complexity of the Near East problem. The preamble starts with these words : "Convinced of the urgent need to establish a long-lasting, global, just peace in the Middle East in agreement with resolutions 242 and 338 of the Security Council."... remarking that the above-mentioned framework agreement, established for constituting, according to the circumstances, a basis for peace not only between Egypt and Israel, but also between Israel and each one of the other Arab neighbours who would be ready to negotiate peace with it on this basis." In the same way the rights of the Palestinian people are talked about there. But on the other hand it can be noticed that the text is silent on the problem of Jerusalem or Golan. By mentioning the possibility for other neighbouring States to join the treaty, the impression of an opening to other parties is created. But in reality a change of contract is not possible as is shown by the formula "ready to negotiate peace with it on *this basis*". That means that there would only be adherence if there was a total acceptance of the treaty's context. The report by Mrs. Chemillier-Gendreau and Mr. Colin showed in a most detailed manner that the notion of "autonomy" in the treaty does not at all link-up with the obligation of international law to respect the right of peoples to self-determination. None of the legitimate interests that a peace settlement in conformity with international law should respect, found an adequate solution in this text.

The consequence of these reflections is that the Washington treaty is a separate treaty. Its validity is supposed to be independent to later stipulations. Former obligations which are not conform with posterior stipulations with other partners are annuled in express terms (cf. article 6, paragraph 5). The declarations made by Egyptian political personalities as regards the convention on general defence in 1950 signed by the member States of the Arab League, confirm this interpretation. This declaration clearly specifies that Egypt does not consider itself as being engaged by the interarab defence agreement, if an Arab country perpetuates an aggression against Israel. The precedence of the Arab defence pact over the peace treaty with Israel would be put into action only in the case of Israeli aggression against an Arab State. If we take into consideration the fact that the acts of Arab countries against Israel, independent of their historic moment are only acts of defence against a permanent aggression, we see clearly that these declarations proportionate to the Washington treaty correspond to a total refusal of the inter-Arab defense agreement. In my opinion it is not only a matter of a latent incompatibility as was said in the introductive report, but of an incompatibility of patent obligations. According to the rules of international law this fact leads to the invalidity of the Washington treaty. The Washington treaty also violates the principle of collective safety, a principle of contemporary international law inscribed in the U.N.O. Charter. One of the most important experiences resulting from the Second World War was the juridical obligation of the collective guarantee of peace in the U.N.O. system in general and in the system of the Security Council in particular. The collective security system which was

mentioned in the principle of article 1 of the U.N.O. Charter should serve to ensure world peace. Alongside the collective security system in the framework of the United Nations, the U.N.O. Charter also foresees regional systems of security (chapter 13 of the U.N.O. Charter).

The creation of regional systems of collective security is the realization of the right of States to collective defence. It is the most effective form for the guarantee of this inalienable right. The regional security systems have their basis in the international law conventions. They do not only produce their obligations at the time of an armed aggression against one or many partners of the contract, but above all they foresee common preventive actions to prevent the aggression itself.

According to the U.N.O. Charter, the regional treaties or the organizations whose aim is world peace and international security, are attached in their actions to the aim and to the principle of the United Nations (article 52 paragraph 1 of the U.N.O. Charter). The U.N.O. Charter forbids by that, regional contracts or organizations by which would be created, aggressive military pacts directed against a State or a group of States. On the contrary, the States which participate in a regional security contract or in such an organization are obliged to co-operate in the guarantee of peace and security in their region in an active way, and to struggle for the peaceful settlement of local conflicts by using treaties or the regional devices (article 52 paragraph 2 of the U.N.O. Charter).

The aim of a regional system of collective security is not alone to prevent aggressions but also to develop stable relations between all the States of the region concerned on the basis of the principles of the sovereign equality of States, of the respect of territorial integrity, of the equality of rights and of the non-interference in the interior affairs of the other States. In virtue of these conventions, these regional systems do not only serve as a guarantee of collective security for the member States, but they create at the same time a new quality of international law relations between the participating states. According to article 53 of the U.N.O. Charter, the devices of a regional system cannot exercise coercive measures except with the Security Council's authorization. Important regional organizations are thus in conformity with the principles of chapter 8 of the Charter. It concerns especially the Arab League and the Organization of African Unity. On the other hand, pact systems such as N.A.T.O., C.E.N.T.O., etc. are in contradiction with the demand fixed in the U.N.O. Charter for regional conventions or organizations in the sense of chapter 8 of the U.N.O. Charter. That results from the fact that these pacts are directed in a clear manner against other States and because the condition of adherence to these pacts is a socially determined system.

The introductive report shows after a very detailed analysis that the Washington treaty only aims in appearance at a mechanism of security in the framework of the U.N.O. Charter. The real aim of these contracts is more the formation of multinational military forces, inde-

pendent of the U.N.O. Those who are most directly concerned by this conflict are excluded. Furthermore it must be said that a more specific analysis leads to the conclusion that the Washington treaty is directed against the other peoples concerned.

This analysis is confirmed by the political events which followed the signing of the treaty, and which are well-known today. Two hours after the signing of this text the American Minister for Foreign Affairs Mr. Cyrus Vance and the Israeli Minister for Foreign Affairs Mr. Moshe Dayan co-signed a memorandum in which it was declared in very clear terms that the United States were ready to take into consideration measures such as the reinforcing of the American presence in this region and the priority supplying of arms to Israel. James Reston the well-informed commentator showed the consequences of this ultimatum on the peace forces in the Near East. None of the parties including the Soviet Union, the P.L.O. and the Arab States can ignore this memorandum, these parties which are already now against the peace treaty and which threaten Israel, Egypt and even the United States with sanctions (Herald Tribune of 31.03/01.04. 1979). One must not only see the direct military intervention of certain military units, the new concentrations of American military forces etc., but one must also make the connection between this alliance in the Near East and an alliance like the N.A.T.O. in Europe, in the Mediterranean and other regions like Asia, Africa and in the Indian Ocean. That is why this new pact must be judged in the same manner as the other pacts directed against the U.N.O. security system.

3. JURIDICAL CONSEQUENCES

The result of the juridical analysis of the Washington treaties is clear. No obligation of international law is produced by these treaties as regards the three partners. These treaties violate international law in many respects : general imperative law (jus cogens), United Nations Charter, acts of international organizations especially resolutions of the General Assembly or the Security Council, bi or multilateral treaties etc. A thorough analysis which I cannot make here would enable us to specify to what degree of violation corresponds each aspect of the treaties, and what international law sanction would be possible.

The main act of the Israeli aggression has been clear for a long time.

The evaluation of the degree of violation of the international law by Israel is quite simple. There is always an aggression which is a threat for world peace as it is said in different resolutions of the U.N.O., especially in the resolutions of the Security Council. All the sanctions damages, reprisals, legitimate military force, would be possible towards Israel. The Security Council made an evaluation of the situation in the occupied regions for example at the end of 1976. All Israel's acts are null and cannot be taken into account in the search and the creation of peace. On the contrary they are an obstacle to peace. All these acts constitute a threat to world peace and a serious danger for international security

(Vereinte Nation, Nr. 1/1977, S. 31). In a strict and clear manner the Security Council ranked the Israeli regime on the sides of the racialist regimes of South Africa and Rhodesia against which many measures of sanctions have already been taken.

The U.N.O. General Assembly many times declared that it asked all the States to abstain from all military assistance or other help to Israel which could serve to consolidate its occupation or the exploitation of the natural resources of the occupied territories. The juridical consequences of these declarations is that all these acts of aid to Israel are in themselves offences which are sanctioned by international law. The realization of these sanctions is a political question especially against States as strong as the United States, but also against Egypt. Here the possibilities of international jurists are limited and even exhausted. But in any case one must free oneself of the idea that the centre of international law lies in the question of the coercive actions, unilateral or multilateral. Such actions against a State, violating international law are on the contrary only one form of the possible sanctions. There are other forms which are not characterized by state coercion. The pressure of public opinion for example is a very important instrument especially on the international level. Today the situation of the international forces, of which the international law is only a positive expression, is characterized in such a way that a State cannot make a permanent policy in contradiction with the principles of international law. A juridical analysis whose result is that there exists a serious violation of international law and which gives to all the defence actions of the concerned subjects a legitimacy in international law constitutes a very important weapon for the progressive forces of which the international association of jurists is an integral part in international conflicts.

Mr. J.P. COLIN,
Professor at the University of Reims

I would like to bring up again one of the points raised by our colleague and friend professor Stuby. I am a bit worried, to tell the truth, about the interpretation which he presented to us of the situation created by the Camp David agreements and the Washington treaty. Insofar as our objective is to place in a prominent position certain flagrant contradictions between these agreements and positive international law, such as it is analysed today in most States, I am not sure that we need to go back as far as he did, and I am not sure that it is in our interest to put forward a concept such as that of collective security, whose content is debatable and of which professor Stuby presented an interpretation which to my mind, at least, is only one among others. As for me I admit that I do not understand how, for example the Atlantic Treaty would be contrary to collective security if it was not the case with the Warsaw Treaty.

As regards our report, indeed, we made it be seen that Israel had, to a certain extent made substantial concessions to Egypt, but it is advisable to be well understood on this point.

For a long time the Israeli leaders whoever they were, besides, declared that they would never abandon a certain number of strategic bases in Sinai, that they would never abandon Sharm-el-Sheikh. On that account their policy has evoluted, but the meaning of which must be put it a prominent position : it seems to me to be very clear that if the present Israeli government has seemed to reverse, in this case anyway, it is precisely because it defends another conception, which we questioned in our report, the conception of Great Israel, and it is undoubtedly in order not to have to make more concessions on the occupied territories question that the Begin government thought it could make concessions to Egypt.

It remains true that from the Egyptian point of view, from the point of view which could be that of the Egyptian State, a concession

had been made, because Israel accepted, at least in principle, to withdraw along the international frontier. That having been said, I think that we can agree : there is a Palestinian problem, with a Jewish emigrant population and an Arab population which is partially dispersed. This problem arises in the framework of the international frontiers of Palestine, of old Palestine under British mandate, and we simply wanted to note on this particular point that the Camp David agreements had, from the Egyptian point of view in any case, the advantage, to recall the existence of this international frontier while in previous declarations, certain Israeli leaders seemed to have questioned these international frontiers with Egypt. We did not wish to say more.

I would like to reply also, but again very briefly on another point, to my colleague and friend professor BENCHIKH. His intervention leads me to believe that it is not very much in our interest to keep our distance and to place ourselves in an essentially political perspective while it is in a perspective, above all juridical, that we are invited to debate here. Certainly, we can "dream" as President Yasser Arafat did – it was he himself who employed this expression – it is for the time being a dream, of a democratic Palestine. Those lovers of the lay tendency will rejoice, will they not, to see in fact a democratic and lay State expressing in this region the hopes of the entirety of the populations, Moslem populations, Christian, (they are also very numerous), and Jewish populations. But for the time being it is a dream. For the time being on the political level, the situation is different ; the P.L.O. has itself, and officially, accepted the creation of a Palestinian State in the territories which were occupied in 1967, as soon as they would be freed of the Israeli occupation. This should be the basis of our discussion, of our reasoning. It is not our occupation at the moment to imagine solutions which, within an unknown lapse of time will perhaps allow us, and in a much better way than today, to overcome the deep contradiction with which we are faced.

As for the existence of a people, here again I think that one must be a jurist above all in this domain, at least for reaching the objective which we have assigned ourselves in this colloquy. There is not at the present time an international and juridical definition accepted by everyone, of the notion of people. It is a well known fact. So does an Israeli people exist ? Personally, I feel obliged to ascertain ; that this Israeli people be formed by a gathering in certain respects incongruous, that there exists here a sort of melting pot, is also evident, but the United States themselves are born of a melting pot and I think that our American comrades here present, consider themselves nevertheless as belonging to the people of the United States of North America. I think then that the problem, if it was put in that perspective, would take us too far ; I believe it to be easier, and that is what we wanted to do in this report, to raise the problem in present day terms, naturally without us definitively siding with the historical development. History will tell us what ties will finally be established between the various populations of Palestine. For the moment, it is certain, the people who cannot express itself,

the people who are to a large extent dispersed, that is the Palestinian people. So it is thus firstly to these aspirations that we must reply. I insisted on saying that, all the same, because I think that we are discussing very frankly and very freely here, but at the same time, if a perfectly legitimate contradiction – exists between us, it must not be in any way skipped over.

Mr. BEYE,
Minister for Foreign Affairs
of the Government of Mali

I agree entirely with what was said by our friend J.P. Colin on certain points. I think that if we could push our reflection as far as the notion of collective security, as non-aligned, I would hope that in that case the Warsaw pact would be considered as the N.A.T.O. pact because for us, the non-alignement is the overtaking of the negative consequences of the Second World War.

My second remark aims at what he also said as regards a democratic state or reactionary state, a distinction which was made by our Algerian friend. There is there an entire reflection which could certainly be deeply examined. But it is dangerous to give such easy arguments to our detractors and other enemies who could then use these democratic state concepts (there are some who think sooner of democratic government and reactionary government).

It is very much in our interest in order to give credibility to our works to remain on the grounds of a pure juridical technique even if those grounds are those of our adversaries, and it is because it is their ground that we will best overcome them. And there, I mention my disagreement with my friend Colin, I am not sure that his observation on the concessions, the alleged substantial concessions of Israel is well founded. Personally I have reservations on this appreciation. Here is why. Israel, even before the signing of the Camp David agreements, deliberately highly placed its positions to be able to appear in the framework of a negotiation, by giving the impression of making concessions on points which normally should never have been raised. I cannot myself consider as a concession, the fact of erasing the consequences of an aggression. That for me is not negotiable. It does not seem to me to be a concession. That is why I said and I repeat that if I see what Egypt gave, I do not as yet see what Israel gave. The fact of evacuating the Sinai does not seem to me to be a concession at all, and it is on account of that, that I issue the most absolute reservations concerning this notion of substantial

concession, even if it appears in a certain press that they are Israeli concessions.

D. THE PROBLEMS CAUSED BY THE ACKNOWLEDGMENT OF THE INTERNATIONAL FRONTIER

Intervention by Professor SALMON,
President of the Faculty of Law at the free University of Brussels

I will limit myself to making some remarks as regards article 2, relating to the permanent frontier. And, in this respect the first thing is that this text says "the permanent frontier between Egypt and Israel is the recognized international frontier between Egypt and the old Palestinian territory". I esteem that this sentence is in itself extremely ambiguous. One can at first see in it a first defeat, that one which Mr. Benchikh was pointing out in a certain sense a while ago, it is the question of the wish which could have been expressed, of a lay and democratic Palestine, in the sense that was given to this word in the famous speech by Arafat at the United Nations, that is to say, to obtain that in the framework of the Palestinian territory the two peoples Palestinian and Jewish try to build one Nation. It is evident that a solution of this nature is definitively brushed aside by the text. But again (and here I rejoin J.P. Colin) it is probable that our Palestinian comrades would be ready to establish in the immediate future a Palestinian State at Gaza and let us say in the occupied territories without perhaps renouncing their greater projects till later.

This waiting situation is put in danger by the text of article 2. Indeed insofar as this text assimilates the frontier between Egypt and Israel to the frontier of the mandate, it implicitly recognizes that Gaza is part of Israel. Of course we could say it is specified that this is without prejudice to the matter of the status of the Gaza stretch but it remains none the less that this status is itself not specified – What status is concerned ? that one of which we speak ? status of autonomy ? status of autonomy where ? in Israel ?

When we say afterwards that the parties acknowledge the inviolability of this frontier, or that each one will respect the territorial integrity of the other, including their territorial waters and air spaces, it

is clear that implies on the Israeli side, or point of view, the maritime and aerial space of the Gaza stretch. I esteem that there is there again a trap into which the Egyptians have unhappily fallen.

E. THE INCOMPETENCE OF THREE STATES TO SETTLE THE SITUATION OF A THIRD PARTY PEOPLE

Mr. FRANCOIS RIGAUX,
Professor at the Catholic University of Louvain

This encounter is a demonstration of the solidarity of progressive jurists with the just cause of the Palestinian people.

Among jurists, our support consists in studying the agreements on a juridical level. The first principle which must be recalled in the face of the Camp David agreements is the reaffirming of the right of peoples to self-determination, a right affirmed by numerous texts of the United Nations General Assembly, by the international pacts relating to the civil and political rights and to the economic, social and cultural rights, as well as by the universal declaration of peoples' rights.

From the principle of self-determination we can deduct that there is a reason to acknowledge the existence of the Palestinian people with its cultural and historic identity, as well as the tie between this people and a territory : this signifies that it has the right to the peaceful possession of its territory and to its restitution when it has been injustly taken away.

In this respect, it must be regretted that the Camp David agreements and the treaties between Israel and Egypt do not help, on the contrary, to restitute to the Palestinian people the enjoyment of its territories and the rights pertaining to it.

The criticisms to be formulated against the treaty are, much more again than that of their nullity as regards jus cogens, that of the radical incompetence, the lack of power of the three States signatories to the treaty, to give their opinion in any way, on the fundamental rights of a people that none of these three States can pretend to represent.

We were happy to hear by way of the courageous jurists voices, some having the Israeli nationality, others the Egyptian nationality, that they dissociate themselves from their government. I will add that even if

it was demonstrated that the Egyptian people and the Israeli people supported the treaties, these would not be more valid on that account.

The real problem of jus cogens is to know if the titular of a right, if the titular of a competence can exercise this right or this competence contrarily to the imperative rules of international law. The Camp David agreements arouse a much more fundamental question : the very matter of the treaty, the tie between the Palestinian people and its historic territory is preserved from the competence of subjects of international law who do not represent this people and cannot avail itself of rights as regards its territory.

F. THE RULE OF NON-CONTRADICTION BETWEEN SUCCESSIVE TREATIES

Mr. ANDREA GIARDINA
Professor at Naples University

My intervention touches upon a particular point, that of article 5 of the so-called peace treaty between Egypt and Israel, an article which has a fundamental position in the general economy of this treaty and which touches on the report of the obligations and the rights fixed in the treaties, with the obligations which devolve upon the parties and especially Egypt, and Israel, being members of other international organizations, especially the United Nations Organization, and being parties to the defence agreements, multilateral or bilateral agreements.

Indeed, the ambiguities which were at the roots of the stipulation of the agreements between Egypt and Israel are glowing in this article. And it seems that either these agreements are not valid or else they can only be interpreted in harmony with the United Nations principles and in harmony with the previous engagement of the contracting parties.

Article 6 of the peace treaty touches upon two series of previous obligations of the contracting parties, those which issue from the United Nations Charter and those which issue from other engagements by the contracting parties with other third-party States.

1) As regards the obligations issuing from the United Nations Charter, paragraph 1 and 5 of article 6 contain a general affirmation of the primacy of the obligations issuing from the Charter. Reference is made to article 103 of the U.N. Charter which says in a very clear manner that the Charter obligations should prevail in the case where they would be in contradiction with other engagements of the parties, member-States of the U.N.

That has a specific consequence concerning the interpretation of the Camp David agreement and even of the Washington treaty of 1979. That means that the U.N. acts, the two famous resolutions of the Security Council which were mentioned and also annexed to the Camp

David agreements by the contracting parties should be interpreted in a manner conforming to the general principles issuing from the Charter. Given that the resolution 242 of the Security Council was made on the occasion of a well-determined conflict, we should interpret this resolution in a certain mind, in reference to the military aspect of the conflict but not without reference also (for it is obligatory) to all the rules of the U.N. and especially to the rule of self-determination of peoples which should be considered as inserted, as integrated automatically into the text.

The same goes for the question of the Israeli withdrawal from all the occupied territories.

Thus, given that this resolution should be interpreted and applied, (article 6 imposes it), in harmony with the general rules of the United Nations Charter one must take into consideration the fundamental principle of the Charter according to which no violence or employing of force is allowed and no occupation of territories should be legitimized, when it results from the violation of the United Nations Charter. We are thus lead to the necessity of a re-establishment of the situation such as it existed before the employing of force.

And it can be upheld that all the parties of the peace treaty who were in disagreement with the principles of the Charter, particularly that one, dealing with the non-occupation of others' territories can be eliminated from the agreement.

2) As regards the other series of obligations, the obligations issuing from bilateral or multilateral treaties stipulated by Egypt and Israel, the situation is even more astonishing : the general principle included in article 6, is the principle according to which the Israeli-Egyptian peace treaties prevail over every contrary obligation signed by the contracting parties.

Given the enormous consequences of this formulation, there was a sort of explanatory notice made and signed by the two parties this time which seem to reduce the impact of this affirmation of priority of the peace treaty in relation to the other international engagements of the parties. But it concerns a very ambiguous explanation of this supremacy, as the parties came to an agreement on the following text ; "It is agreed between the parties" that there is no insertion "that these treaties prevail over other treaties or agreements or that other treaties or agreements prevail over these treaties". That is to say that the parties, after having said that the treaty prevails over the other engagements, added afterwards that this paragraph 5 and article 6 should be interpreted as acknowledging the same value to all the engagements, even contradictory, of the contracting parties. But the explanatory notice adds "that which precedes should not be interpreted as contravening the dispositions of article 6, paragraph 5 of the treaty which reads as follows" : and the text which had been drafted beforehand follows in such a way that we do not understand if they wanted to correct the text or if it has been maintained as it was before.

This contradiction can only be explained by enormous political difficulties, from which results a deliberately maintained ambiguity.

But if we admit to the need for harmony of the text with the United Nations Charter and with all the engagements made by the contracting parties towards a third-party State, we are consequently placed in front of this dilemma : either these treaties, by an interpretations which harmonizes with the U.N. Charter, have their contents modified or else it concerns a treaty which is inconsistent with itself and thus invalid.

POSTFACE

It is not easy to define the ideas of synthesis of an entirety as rich and as varied as that formed by the interventions at this conference.

On re-reading and classifying them, as we attempted to do, it was found that a very great deal of these interventions refined and completed the juridical analysis presented in the introductive report.

The radical incompetence of the parties as regards the object of the treaty (the destiny of a third-party people) was heavily underlined. The right of the Palestinian people to self-determination was analysed in all its historical, political and juridical dimensions. The question of an eventual infringement or the absence of an infringement against the Egyptian sovereignty was widely discussed. The full significance and the real nature of the autonomy were minutely bounded in these debates.

But beyond this unity of interventions, others which we classified in the first and second parts went well beyond the right.

"Our problem is not an international law problem" declared Mr. Sourani, a Palestinian lawyer.

And in texts where penetrate the passion (of a people in search of its native land), the indignation (in face of the juridical manipulations), the solidarity, the subject, at first juridical, of the conference grows and takes on all its human dimension. And because the entirety of these works permitted at the same time to get to the depths of the juridical analysis and well beyond it, we are led (it is an inevitable proceeding for anyone who knows of what little interest is a dry juridical positivism) to ascertain the non-autonomy of the juridical instance.

Law finds its source in concrete social conditions which are external to it, it expresses them or tries to express them or fails to express them, at a precise historical moment.

But the rule of law, applied or contested, is itself next to launch changes in the previous solid conditions, new social points which will engender another law rule and it is the dialectic coming and going without end between law and fact, between norm and life, a combat in which life always triumphs even if its victory is always temporary.

The lawyer, uncomfortable spectator, knows that the law's resources, skillfully manipulated can serve the most unjust causes and attempt to vindicate them legally ; he knows that international law is poor in official instances of qualification and in judges (who will tell, who will sanction the widely demonstrated illegality of the Camp David agreements and of the Israeli-Egyptian treaty ?). But he also knows that the rule that does not exactly size up the legitimate interests and claims of each and everyone is particularly ephemeral, and that against a "nefarious" law born of a certain confrontment, the weapon of law can be used alone or together with other means in overthrowing this confrontment.

These remarks made on the Near East situation lead us to conclude that :

I – The signatory parties to the treaties analysed throughout this work, that is, the Governments of Israel and Egypt with the intervention of the United States Government thought they were benefitting in the circumstances of the last months of 1978 and the first month of 1979, of a situation permitting them to impose the juridical solutions contained in these texts. The elements of this situation were the following :

a) Firstly the importance of the United States in this conflict, their part as file-leaders of world imperialism, their geo-strategic interest in the Near and Middle East (see the very important indications supplied by Mr. Nordmann's intervention) and the importance of the Jewish community in American society.

b) The reactionary nature of the present Israeli government. It is a fundamental point which was remarkably stressed by Mr. Benchikh's explanations.

c) The economic weakness of Egypt. It can be left to men and, under the circumstances to statesmen, the benefit of the doubt as regards their degree of sincerity. Did the Egyptian president sincerely try to reconcile the interest (as he saw it ; autonomy !) of the Palestinian people and the interest of the Egyptian people (a war effort, useless from now onwards and an American help which has been analysed in many interventions) ?

It still remains that the economic difficulties in which the Egyptian population were to be found were not negligible elements of the "agreement" of 1978-1979.

d) Finally the combined arrogance of the three State or Government leaders, thinking they could conclude for a third party.

The Government of the United States of America thus makes easy use of and manipulates at will, well before the Palestinian people, the peoples of Latin America or certain peoples of Asia.

The Israeli government is pursuing a policy of ignoring the Palestinian people, which began with the very birth of the State of Israel.

As for the Egyptian government, maybe it considered itself to have the power to speak in the name of all Arab peoples...

It still remains that this triple attitude has led us almost a century

backwards, on the diplomatic and juridical level. At the Berlin Congress also in 1884, the governments of the great nations decided for the peoples, then called natives, who took more than eighty years to overthrow the injustice thus created.

But 1978-1979 is not 1884-85. Thus the great nations expressed in a law text (final Act of the Berlin congress) a confrontment which was solidly in their favour.

II – The great mistake of the three governments who participated in the Camp David agreements and the Israeli-Egyptian treaty, was to have underestimated their common position in the general confrontment.

The law, once formulated does not become effective until it expresses the overtaking of a contradiction.

In the case of the agreements examined here, undoubtedly some of its dispositions have become effective or are on the way to becoming effective : the mutual acknowledgment, the relative opening of the frontiers, the evacuation of Sinaï.

But the alleged "settlement" of the Palestinian question could not become effective, the "should be" (sollen) contained in the norm (the treaties) could not become the "being" (sein) because too many realities are unknown. Indeed facing the elements mentioned below and which permitted the composing and the signing of the treaties, the following elements prevent their execution.

a) The stubborn and definitive existence of the Palestinian people with its national personality, its struggle and its organization. It is the central piece unknown by the Treaties, unavoidable and analysed sufficiently throughout this work.

b) The failure, from now on evident, of the autonomy negotiations. The disillusioned Egyptian leaders talk today of "a hundred year negotiation, as there was a war of the same name."[1] This failure is merely the expression of the reality "mentioned" in a).

The Palestinian people has a national reality which could not in any particularly administrative framework, combine with the Israeli national.

c) The difficulties, not to mention the ruptures inside of the American community. Certain interventions (see the second part of this work) greatly witness these.

On the diplomatic level, the "Young" affair, having taken place in the month of August 1979 obliged President Carter to choose clearly between the jewish American community and the black American community.

d) The provocative policy of the Israeli government as regards the continuation of the introduction of colonies (see the Roblès plan in annex) obliged the member States of the U.N.O. to make repreated

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1. Le Monde, January 12th 1980.

condemnations as much at the General Assembly as at the Security Council, leading to the "stutterings" which we know, on the United States' part (voting the condemnation of this policy of introduction one day, and confessing the next day that it was by mistake).

e) The evolution of numerous countries such as those forming the European Nine who gave their opinion on Tuesday September 25th 1979 before the General Assembly of the United Nations, for an "acknowledgment of the legitimate rights of the Palestinians".

f) Finally the oil diplomacy, not an unimportant element of the confrontment, a complex element taking into account the multiple contradictions of the Arab world, but part of the file which can weigh a very specific weight in the present international conjuncture.

These different facts constitute as we can see, a network of contradictions much more complex than those fragmentary ones, which the authors of the treaties only took into account.

The Palestinian people's determination, the progression of world solidarity towards them, errors and weaknesses of the adversary, those are the present day and real elements of the confrontment. No international law norm can become effective without considering them as subtly as possible.

MONIQUE CHEMILLIER-GENDREAU
Professor at Reims University

Annexes

RESOLUTION ADOPTED BY THE INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS ON SEPTEMBER 30th 1979

The participants of the International Conference on the "American-Israeli-Egyptian Treaties and the international law", reunited in Paris on the 29th and 30th September 1979 ;

ESTEEMING it necessary to call the attention of public opinion to the serious preoccupations raised by the camp David Agreements of September 17th 1978 and the Israeli-Egyptian Treaty of March 26th 1979, from the point of view of the respecting of international law,;

CONSIDERING that the Middle East situation created by these agreements and this treaty, can be judged from the international law point of view ;

CONSIDERING that the situation of the territories occupied by Israel and the aggression in process in southern Lebanon, should be juridically examined ;

DECLARE THAT :

1. The Camp David Accords and the Israeli-Egyptian Treaty were elaborated and signed between three States having no competence whatsoever in deciding the destiny of the Palestinian people, in flagrant contradiction with the principle of the right of peoples to self-determination. (article 21 of the U.N.O. Charter ; the resolution 2625 of October 24th 1975 ; the resolution 3236 XXIX , etc...). Consequently, these Agreements do not engage either the Palestinian people or its legitimate representative, the Palestine Liberation Organization.

2. They were concluded without the other States of the region, of which part of the territories are illegally occupied by Israel, being consulted and associated, violating the rule of the relative effect of the treaties.

3. They grant to only those Palestinians living in the Palestinian territories occupied after the war of June 1967, a status of autonomy, of a strictly administrative nature. It is thus that all legislative power, the power to levy taxes, the power to establish independent exterior relations, to assure its own defence, to print passports, to issue postage stamps or money, to create a central bank, are refused to them. Moreover the future "autonomous authority" will have no authority over the natural resources of the territory : water source, energy source, etc... This status of autonomy is thus only a front destined to deceive the public opinion and to perpetuate the Israeli occupation.

4. They ignore the United Nations resolutions which unanimously condemned the annexation of Jerusalem by Israel in 1967 and the various means for changing its legal status.

5. They assign to the United States a part which constitutes an interference in the exterior and interior affairs of the region. This part contains powers of action including military intervention.

6. They establish a military alliance of fact between the United States, Israel and Egypt, to check the desire of the peoples of the region struggling to free themselves from the imperialism, the racialism and the racial discrimination.

7. They allow Israel the possibility of continuing its colonization of the occupied Palestinian territories considered as an integral part of Israel and of increasing the settlement of colonies in these territories and this in spite of the unanimous condemnation of this policy, a condemnation to which were associated the democratic forces on the interior even of Israel and Egypt.

8. They grant to Israel the power to perpetuate its occupation of Palestinian territories by "redeployment" of its armed forces (article 2 of the framework Agreement on Cisjordan and Gaza and the Treaty of March 26th 1979).

9. They facilitate the policy of permanent aggression against Lebanon, especially by the policy of the "burnt land" practised in the south of the country.

Consequently, these agreements constitute a violation of the rules and principles of International Law, for they prevent the realization of the inalienable rights of the Palestinian people, meaning its right to self-determination, its right to establish an independent and sovereign State in its native land, as well as its right to return, and increase the threats of war in the region.

The participants of the Conference solemly declare that the Camp David Agreements and the Israeli-Egyptian Treaty are null and void and cannot in any case be considered as a basis for the search of a just and lasting peace in the Near East. Every solution must necessarily pass through the acknowledgment and the putting into action of the rights of the Palestinian people as well as the right of all the peoples of the region to live in peace and security.

UNIVERSAL ZIONIST ORGANIZATION
RURAL COLONIZATION DEPARTMENT

FRAMEWORK-PLAN FOR THE DEVELOPMENT OF THE SETTLEMENTS IN JUDEA AND IN SAMARIA 1979-1983

BY MATITY AHU DROBLES

Jerusalem, October 1978

1., INTRODUCTION

For a long time now, the absence of an overall plan has been deplored, a plan established by professionals and based on serious data, for the colonization of Judea and Samaria, regions which are usually indicated by the sign : "J & S". That is why, as soon as I became director of the department of the Jewish Agency, responsible for the problems of colonization, and of the department of the Universal Zionist Organization responsible for the rural colonization, I began – with the help of highly qualified collaborators with a very wide experience, which I found in these services, to examine the different possibilities of establishing an overall plan for "J & S" of which the first part could be realized within the next five years. The essential basis of such a study was necessarily a systematic and complete examination of the grounds ; which is presently only half finished but it is probable that its completion will allow us to plan additional colonies, apart from those proposed in the present document.

Here are the leading principles which orientated our plan :

1. The colonization of the entirety of the land of Israel will be done in the interest of security and in full right. A continuation of colonies situated in strategic points is a means of improving both internal and external security, while solidifying our rights over Arab Israel and allowing them to be realized.

2. The dispositions of the colonies will be decided according to a general policy of creating units maintaining mutual relations of common services and means of production. Also, certain community colonies, while growing and developing could, with time merge to form urban agglomerations encercling the entirety of the colonies with their unit. In four zones only, because of limits imposed by the outline of the land and its small expanse, there is no other possibility but to create an isolated colony.

3. The colonies should be situated not only around the centers inhabited by the minorities, but also in the spaces which separate them, according to the policy of colonization already adopted in Galilee and elsewhere in the country. With time – and whether there be peace or not – we will be obliged to learn to live with the minorities and among them and conversely, while trying to develop good neighbour relations at the same time. It would be in the interest of the two peoples – the Jews and the Arabs – to get used to this cohabitation as soon as possible, because, all said and done, the development and the prosperity of the region will benefit from the unity of its inhabitants. That is why the units of colonies foreseen form a continuous stretch surrounding the chain of Judea and Samaria, stretching out on its occidental slopes from north to south and on its oriental slopes from south to north, encircling the zones populated by the minorities and crossing them.

4. The new colonies will be established only on lands belonging to the States, and not on private lands belonging to Arabs and duly enregistered. We should take care not to make it necessary to expropriate the subjects of minority communities, owners of private plots. It regards that which makes the present overall plan so original . absolutely all the zones proposed for the creation of new colonies mentioned below were minutely examined and situated with care and all of them are unquestionably State property, according to the indications previously provided, thanks to the complete and thorough study of the ground already under way.

5. The colonies' sites were defined after the thorough examination of the various ground capable of being chosen, an examination which took special notice of their topographical characteristics, the state of their soils, etc...

6. With the aim of assuring the widest possible settlements, and an elevated standard of living for their inhabitants, we suggest that the majority of the colonies in "J & S" be, from the start, community establishments. There would also be a certain amount of agricultural or mixed colonies, settled in function with the means of production existing locally. The settlers will be employed mostly in industry, tourism and various services, a minority working on the intensive cultivation of the land.

We know that it is the task of the Department of colonization to establish, to develop and to put to work the programme of settlement recommended by the Government, and by the mixed Committee for the colonization organized by the Government and by the Universal Zionist Organization. I hope that this programme – which is based on practical experience, professional knowledge, land examinations and a previous planning, all in the aim of assuring the effective carrying out of the project – will have the approval of these entreaties, in the near future; I think, moreover, that it will be so. It is wise to keep in mind that it could be too late tomorrow to realize that which it would not have been today. I think that we should encourage and orientate systematically the present tendency of leaving the cities to live in the country, on account of this standard of living which the rural communities characterize. We will succeed thus in dispersing towards the presently empty zones in "J & S", the populations of the very deeply populated urbanized coatal strip. There exists today young people who wish to settle in "J & S" and we should permit them to do so, as rapidly as possible.

Once the plan which is the object of this present document is approved of the Department of colonization will take in hand the task of preparing a detailed plan for the development and the colonization in "J & S" along with a calendar for the realization of the different colonies which have been programmed; it will proceed in the same way for the programme of expansion and development of the existing colonies and of those presently under construction. We must at the same time be certain of being alloted, in the U.Z.O.'s State budget, the necessary investment credit.

The plan which we present here foresees the establishment, within the next five years, of 46 new colonies in "J & S" with a population which should reach 16.000 families at the end of this period, and all of this at the cost of a global investment of thirty two billions of Israeli pounds. At the end of the first year the

number of families having moved in should, normally, reach the figure of 5,000 at the cost of ten billion pounds of investments, which will mean that the annual rate of investments for the four remaining years will be 5,5 billion.

In the framework of the expansion of the existing colonies and those already under construction, it is foreseen to settle a total of 11,000 additional families within five years, at the cost of an investment of 22 billion. For the first year of this operation, a total of 3,000 additional families is proposed, which would presume an investment of 6 billion. The annual rate of the investments for the 4 remaining years would thus be 4 billion.

The global number of additional families established in J & S at the end of the five years, in the new colonies, thus which already exist, and those under construction will thus be 27,000, which will require a total of 54 billion of Israeli pounds in investments. During the course of the first year of the projects' coming into play the total number of families settled will be 8,000 and the amount of investments 16 billion, the annual investment rate for the four following years being 9.5 billion.

These investments are absolutely indispensable and constitute one of the conditions for the accomplishment of that which is a national mission of primordial importance.

II. PROGRAMME OF SETTLEMENTS

REIHAN UNIT

It is foreseen to create a new colony in this unit: the Reihan B, which is to be built to the west of the village of Arakah. It will be a colony living from agriculture and industrial activity; it will contain 50 families at the end of the first year and 100 families within five years.

This unit is presently made up of two colonies: Reihan (which will be enlarged by bringing along 50 additional families during the first year and 100 within five years) and Mei-Ami (80 additional families foreseen). Also, there already exist projects for the creation in this unit of colonies of Mei-Ami B and of Barkai B, each with 50 families at the end of the first year and 100 families at the end of the fifth.

The colonies of the Reihan unit will be mochavim (collectivities grouping small land-owners) living partly on agriculture and partly on industrial activities.

MAARAV UNIT

Here it has been foreseen to create four new agricultural colonies situated on a stretch running along the green line in a north-southerly sense, the agricultural lands to be found to the west of this line. Each one of these four colonies will receive 50 families during the first year and 100 families within the five years. Maarav A will be built to the south-east of the village of Kafia, Maarav B to the south-east of Baka-Al-Gharbiyeh, and Maarav C to the east of the Bahan Kibbutz (and to the south of Maarav B) while Maarav D should be found to the east of Toulkarm.

The colonies of the Maarav unit will be joined up between them by a new national highway parallel to the "Iron road" of Nahal, crossing Baka-al-Gharbiyeh and continuing on to Kfar Sava.

REGION OF DOTAN

For the moment, only one site has been found for the plantation of this unit: the junction at Mirka overhanging the Dotan valley. It has been proposed to

establish here, an important community colony under the name of Dotan and to settle there 150 families at the end of the first year and 500 families within 5 years.

SLA'IT UNIT

This unit already has two colonies : Sla'it and Zur-Natan. It is planned, taking the two together, to add 100 families the first year and 200 within five years.

SHOMRON UNIT

Here it is foreseen to establish two community colonies : Maaleh Nahal (to the north of the village of Bourkah) and Maaleh Nahal B on Jabl Yazzid (to the east of Maaleh Nahal). Each one will be populated with 100 families during the first year and with 300 at the end of the fifth. For the moment this unit consists of two colonies : Sanour and Shomron, both of which should obtain 50 more families after one year and 200 at the end of the fifth.

KEDOUMIN UNIT

Along with the already existing colony at Kedoumin (where it is foreseen to settle 50 additional families during the first year and 200 before the end of the fifth), we foresee the creation of three new community colonies, living on industrial work and intensive agriculture, meaning : Kedoumin B on a site in "Imam Ali"* (in north Kedoumin) ; Kedoumin C, in Ras-a-Bayyad (to the south-east of Kedoumin) ; Kedoumin D on a site situated in A-Ras (to the south of the village of Tal). Each one of these colonies will receive 100 families the first year and 300 families during the five year period.

The Shomoon and Kedoumin units will be joined up between them by a network of electricity distribution which at the moment only goes as far as the town of Anabtah. This will be prolongated as far as the colony of Shomron from where will start off lines serving the other colonies of these two units.

The provision of water for these colonies will be made from locally dug wells. At the moment two exist, one at Kedoumin and the other at Bait Abba. In case of need (and according to the requirements of the detailed plan to elaborate and realize later), the digging of additional wells in these zones would have to be taken into consideration.

KARNEI SHOMRON UNIT

In this unit it has been foreseen to create four new community colonies : Karnei Shomron B (to the south of Karnei Shomron), Karnei Shomron C (to the east of Karnei Shomron), Karnei Shomron D (to the south-east of Karnei Shomron C) and Karnei Shomron E (to the east of Karnei Shomron C). Each of these colonies will receive 100 families in the first year and 300 families in all after five years.

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* Site of a grave, situated at 3,5 Km. to the south-east of Sha'ar Hagai, and Holy-place for muslems. It bears the name of Imam-Ali, a Holy person who figures in a famous islamic legend.

The urban colonies of this unit, that is ; Karnei Shomron and Elkana should receive 200 additional families each during the course of the first year and a total of 800 additional families within five years.

This unit already comprises the urban colony of Ariel (Haris) which it is planned to enlarge by settling 260 additional families during the first year of the plan's realization and 1.500 supplementary families in all during the first five years. This colony is situated on the road crossing Samaria and joining the centre of the country to the Jordan valley.

As well as this urban colony it has been foreseen to create a new community colony, Ariel B, on the site situated at Hirbet-a-Shelal (to the west of Ariel), and to populate it with 100 families during its first year and 300 in all five years.

NEVEH-ZOUF UNIT

As well as the existing community colony in Neveh-Zouf (where it is planned to settle 50 supplementary families during the first year and a total of 200 in five years) this unit will be comprised of three new community colonies : Neveh-Zouf B, situated in Hirbet Rouchniyeh (to the south of Neveh-Zouf), Neveh-Zouf C (to the north of Neveh-Zouf) and Neveh-Zouf D, (to the north-east of Neveh-Zouf), these last two being near Kafr Ayin. According to the plan, each one of these three colonies would receive 100 families the first year and a total of 300 in five years.

Neveh-Zouf is already connected to the electricity distribution network. The conveying of water will be maintained from the Ramallah network, passing through Bir-Zeit.

MODIIM UNIT

Four colonies already exist here, on both sides of the green line, depending all four on the Regional Council of Madiim. In Shilat Kfar Ruth and Mevoh Modiim, the settlement of 20 additional families to each colony has been planned during the first year and 80 additional families in all. For Mevoh Horon the figures are respectively 50 and 150. This zone should also receive the colony of Matityahu, which is planned to be inhabited by 100 families the first year and by 300 families by the end of the fifth.

Apart from these various already existing or planned colonies, it has been foreseen to create, on hill 386, a new community colony, Matityahu B (to the west of the village of Bil'in). This one will be inhabited by 100 families by the end of the first year, and by 300 by the end of the fifth.

GIVON UNIT

Two colonies exist at the present day in this zone : Beit Horon (a community colony where it is planned to settle 200 more families within the five years), and Givon initially programmed as an urban colony, but where today we plan – on account of its lack of ground – to make of it an urban colony receiving 150 additional families during the coming five years. It has been foreseen, in its place, to create on a hill to the north of Givon, a new urban colony, Givon B, receiving a population of 500 families during the first year and a total of 3.000 families in five years. As well as that, it is planned to create to the west of Givon B a new community colony, Givon C, where 100 families will live by the end of the first year and 300 in all at the end of five years.

DETZION UNIT (GOUCH ETZION)

There exists six colonies here : Rosh Tzourim (which should receive 30 more families in the next five years), Elon Shvout (100 more families within five years), Kfar Etzion (20 more families), Elazar (15 more families), Migdal Oz (70 more families within five years) and Tekoach (which we plan to transform into an urban colony because of the relatively long distance which separates it from the other colonies of the Etzion unit), where 200 additional families are to be received during the first year and a total of 800 additional families within five years. It has been planned to add to this unit, the colony of Haforit, living from agriculture and industrial activity (50 families the first year and 100 families within five years).

It had been decided to create an urban colony : Efrat, on a site situated to the south of Bethlehem, but given that the available lands would not allow for an adequate expansion, it is now decided to make a community colony of it. As well as Efrat, it is foreseen to create in this unit four other community colonies : Etzion B, in the Beit Fajr forest (between Migdal Oz and Kfar Etzion), Etzion C, at Givat Hamukhtar (to the west of Kfar Etzion) Elazar B, in Cheikh Abdallah Ibrahim (to the north-east of Elazar) and Nahalim (to the west of the village of Nahlin). Each of these four colonies should receive 100 families during the first year and 300 as a total within five years.

The whole of the colonies of the Etzion unit will thus form with those of the District of Adulam, a continuous chain. (The Adulam District is situated between Beit Shemesh and Beit Goubrin).

TARKUMYAH REGION

To the east of the village of Tarkumyah (situated to the north-west of Hebron), in the Tarkumyah forest, it is foreseen to create an important community colony, Tirat-Horesh, destined to receive 150 families during the first year and a total of 400 families at the end of five years. The supplying of its different networks and installations will be made either from the Etzion unit in the north, or from the colonies on the Mont Hebron slopes, in the west and in the north.

ADORAYIM UNIT

It will be possible to create two colonies here. On the one hand, it is planned to establish a community colony, living from agriculture and industrial activities, at the Dorah junction, to the east of the village of Sikha. It will bear the name of Adorayim and will receive 100 families the first year and a total of 300 families in the following five years. On the other hand, a new agricultural colony, Eiton (near Tel Eiton) should receive 50 families the first year and 100 families in all within the five years.

YATIR UNIT

Here again it has been foreseen to create on both sides of the green line colonies destined to form a homogenous unit. For the present this zone has two colonies : Yatir (Ardon) and Lutsifer ; each will receive 100 additional families the first year and a total of 300 within the five years. It has been foreseen to create, as well as that, an agricultural colony, Kramim (50 to 100 families).

As well as these three colonies plans have been made for five new community colonies making their living from agriculture, industry and tourism, that is ; Raveh (on the side of the police quarters of Rahaveh, to the north-east of Kramim), Yatir B, Yatir C, and Yatir D (all three situated on the north-east of Yatir) and Susiya (surrounding the site of the old synagogue to the north-east of Samua). Each

one of the five will shelter 100 families the first year and 300 at the end of five years. It is worth mentioning that the impressive setting of the old synagogue and the Yatir locality and its surroundings could become the object of a plan for touristic animation which would be a source of employment for numerous families in this zone.

AMOS REGION

In the surroundings of Rujm-a-Nakah (between Nahal Amos and Nahal Arugot, to the north-east of Hebron) it has been foreseen to create under the name of Amos, an important community colony, taking in 150 families during the first year and a total of 400 families within the five years.

With the other colonies whose creation has been planned more eastwards, this one could form an integral part of an uninterrupted continuation of settlements stretching out as far as the banks of the Dead Sea and including Mitspeh Shalem, which already exists. It has been foreseen to connect the colonies of the region of Amos to Tekoah and to the colonies of the Etzion unit by a road crossing Judea from east to west and prolonged as far as the colonies of the slopes of Mont Hebron and the Adulam District.

ADOUMIM UNIT

There already exists here a provisional colony : Maaleh Adoumim, with its adjacent industrial zone. The definitive urban colony is at the present time under construction on a site near Aizariyah, in the vicinity of Jerusalem ; it could receive 300 additional families in the first year, and a total of 1.500 additional families within five years. Here is also the Mitzpeh Jericho colony where it is planned to settle 100 additional families during the first year of the Plan being put into operation, and 300 more families within five years. It has been foreseen also, the creation of three new colonies which will form along with those of the Beit-El unit more northerly, a continuous chain ; it concerns Pe'era (Maaleh Adoumim B, near Ain Farah), which will be a big community colony, making a living essentially from tourism and the reception of holiday makers, and sheltering 150 families the first year and 400 at the end of five years ; and Maaleh Adoumim C, north of Pe'era, and Maaleh Adoumim D, more northerly again. These last two will be community colonies each of which should receive a total of 300 families within five years.

BEIT-EL UNIT

This unit already possesses four community colonies, that is to say : Beit-El (where it has been planned to settle 400 additional families within five years), Ofra (300 more families), Rimonim and Kohav Hashahar (in each of which it is foreseen to settle 300 additional families within five years). To the east of Kohav HaShahar is planned a new community colony, Kohav HaShahar B, receiving 100 families during the first year, and a total of 300 in five years.

EPHRAIM UNIT

The new colonies foreseen in this unit will form a continuous chain with those of the Jordan valley. For the moment this unit consists of three colonies : Gitit, Maaleh Ephraim and Mevoh Shiloh. It is foreseen to create a new community colony, Mevoh Shiloh B, to the west of Mevoh Shiloh, and to settle there 100 families the first year and 300 families in five years.

SHILOH UNIT

This unit already has two community colonies : Shiloh and Tapuah (in each of which it has been planned to settle 300 additional families within the first five years of the Plan coming into operation). We could create three community colonies there, each receiving 100 families the first year and a total of 300 within five years, meaning : Shiloh B, on the territory of Batan Hiluah (to the west of Shiloh), Shiloh C, on the Jabl Batan territory (north-west of Shiloh B), and Shiloh D, on the Jabl Rawat territory (north-east of Shiloh C).

ELON MOREH REGION

Here to the south-east of Naplouse on the Jabl Rujaib territory, it has been foreseen to settle a large community colony, Elon Moreh, destined to receive 400 families in the five years following its creation.

NAHAL TIRZAH REGION

It has been planned to create, near Nahal Tirzah, on the Jabl Thayur territory, an important community colony (400 families within five years) under the name of Tirzah.

III. EMPLOYMENT AND ECONOMIC ACTIVITY SECTORS

The economic infrastructure of the J&S colonies and the employment of the inhabitants will be in function with the type of colonies and the general character of the surrounding region.

– In the urban colonies, about 60% of the families will be employed in industry, handicraft, reception of holiday-makers or in tourism ; the others will work in the various services or outside of the colony. In the towns near Jerusalem the proportion employed externally will be higher than anywhere else...

– In the community colonies, the economic infrastructure during the initial period will be the following : about 50% of the families will earn their living in industry or handicrafts ; about 12% in intensive agriculture of a capitalist type ; about 25% externally and 13% in the local services.

– In the agricultural or mixed colonies, the infrastructure will be partially agricultural (intensive agriculture for the most part, insofar as the local conditions for production allow), and partially industrial, work relating to crafts, and touristic. Certain residents will be employed in local and regional public services.

IV. PUBLIC SERVICES AND SOCIAL INTEGRATION

– The different regional services (education, health, etc.,) will be planned and created from the first phase of the Plan's realization ; they will be installed in one of the central colonies in each unit. The residents of the new colonies will particularly appreciate the working out of these services without much delay.

– The social integration : the detailed planning of the colonies will be accompanied by the creation and the organization of "core groups" in foresight of the residents' arrival. The integration service of the colonization Department will put together an overall programme for the social integration of the settlers (old and new) in coordination with the movements of colonization and the other social organizations.

V. THE NECESSARY INVESTMENTS CREDITS

The putting into operation of this five year Plan (the creation of new colonies and the expansion of those already existing or under construction) will require global investments of 54 billion Israeli pounds, of which 16 billion will be used in the course of the first year for the launching of the operations, and the remainder in annual parts of 9,5 thousand billion during the four following years. These figures were obtained in considering a total of 27.000 new families settling, according to the Plan, in J&S in the course of the five years. The average investment per family settled, rises to (being based on the cost of living in July 1978) 2 million Israeli pounds, which are thus divided (figures in thousands of pounds) :

– Infrastructure (roads department, electricity, sewers, etc.)	150
– Provisional constructions	150
– Permanent constructions (including public buildings)	600
– Water conveyors	100
– Means of production	900
– Miscellaneous	100
Total investments per family	2.000

Note: The rural colonies demand higher investments than the urban colonies. The figure of 2 thousand indicated above represents the average investment per family, considering the existence of the two categories.

V (I) Sum total of the investments necessary for the establishment of the foreseen colonies

Unit or region	Colony	Number of families		Total investments (in millions of pounds)	
		First year	in 5 years	First year	in 5 years
Reihan	Rehan B	50	100	100	200
Maarav	Maarav A	50	100	100	200
	Maarav B	50	100	100	200
	Maarav C	50	100	100	200
	Maarav D	50	500	300	1.000
Dotan	Dotan	150	500	300	1.000
Shomron	Maaleh Nahal	100	300	200	600
	Maaleh Nahal B	100	300	200	600
Kedoumim	Kedoumim B	100	300	200	600
	Kedoumim C	100	300	200	600
	Kedoumim D	100	300	200	600
Karnei Shomron	Karnei Sh. B	100	300	200	600
	Karnei Sh. C.	100	300	200	600
	Karnei Sh. D	100	300	200	600
	Karnei Sh. E	100	300	200	600
Ariel	Ariel B	100	300	200	600
Neveh-Zuf	Neveh-Zuf B	100	300	200	600
	Neveh-Zuf C	100	300	200	600
	Neveh-Zuf D	100	300	200	600
Modiin	Matityahu B	100	300	200	600
Givon	Givon B	500	3.000	1.000	6.000
	Givon C	100	300	200	600
Gouch Etzion	Efrat	100	300	200	600
	Etzion B	100	300	200	600
	Etzion C	100	300	200	600
	Elazar B	100	300	200	600
	Nahalim	100	300	200	600
Trakumyah	Tirat-Horesh	150	400	300	800
Adorayim	Adorayim	100	300	200	600
	Eiton	50	100	100	200
Yatir	Raveh	100	300	200	600
	Yatir B	100	300	200	600
	Yatir C	100	300	200	600
	Yatir D	100	300	200	600
	Susiyah	100	300	200	600
Amos	Amos	150	400	300	800
Adumim	Maaleh Adoumim B	150	400	300	800
	Maaleh Adoumim C	100	300	200	600
	Maaleh Adoumim D	100	300	200	600
Beit-El	Khohav Hashahar B	100	300	200	600
Ephraim	Mevoh Shiloh B	100	300	200	600
Shiloh	Shiloh B	100	300	200	600
	Shiloh C	100	300	200	600
	Shiloh D	100	300	200	600
Elon Moreh	Elon Moreh	200	500	400	1.000
Nahal Tirzah	Tirzah	150	400	300	800
Global figures for the foreseen new colonies		5.000	16.000	10.000	32.000

V (II) Sum total of the investments necessary for the expansion of the existing colonies or those under construction

Unit or region	Colony	Number of additional families		Total investments	
		First year	in 5 years	First year	in 5 yea
Reihan	Reihan	50	100	100	200
	Mei-Ami	20	80	40	160
	Mei-Ami B	50	100	100	200
	Barkai B	50	100	100	200
Sla'it	Sla'it	50	100	100	200
	Zur-Natan	50	100	100	200
Shomron	Sanour	50	200	100	400
	Shomron	50	200	100	400
Kedoumim	Kedoumim	50	200	100	400
Karnei Shomon	Karnei Shomon	200	800	400	1.600
	Elkana	200	800	400	1.600
Ariel	Ariel (Haris)	260	1.500	520	3.000
Neveh-Zuf	Neveh-Zuf	50	200	100	400
Nodaan	Shilat	20	80	40	160
Nodaan	Kfar Ruth	20	80	40	160
	Mevoh Modiin	20	80	40	160
	Mevoh Horon	50	150	100	300
	Matityahu	100	300	200	600
Givon	Beit Horon	50	200	100	400
	Givon	40	150	80	300
Etzion Bloc	Rosh Tzourim	8	30	16	60
	Elon Shvout	20	100	40	200
	Kfar Etzion	6	20	12	40
	Elazar	15	60	30	120
	Migdal Oz	15	70	30	140
	Tekoah	200	800	400	1.600
	Haforit	50	100	100	200
Yatir	Yatir (Ardon)	100	300	200	600
	Lutsifer	100	300	200	600
	Kramim	50	100	100	200
Adumim	Mitzpeh Jéricho	100	300	200	600
	Maaleh Adoumim	300	1.500	600	3.000
Beit-El	Beit-El	150	400	300	800
	Ofra	100	300	200	600
	Rimonim	100	300	200	600
	Kohav HaShahar	100	300	200	600
Shiloh	Shiloh	100	300	200	600
	Tapuah	100	300	200	600
Global figures for the expansion operations		3.000	11.000	6.000	22.000

V (III) Global number of families settled and corresponding total investments

	Number of colonies	Number of families settled		Total investments (in billions of pounds)	
		First year	5 years	First year	5 years
New colonies foreseen	46	5.000	16.000	10	32
Existing colonies of under construction	38	3.000	11.000	6	22
Total	84	8.000	27.000	16	54

List of the colonies of people created or in the process of being created in Judea and Samaria.

A. Colonies dependent on the Department of rural colonization

1.	Elon Moreh	Community colony
2.	Beit-El	Community colony
3.	Beit Horon	Community colony
4.	Mont Gilo	Agricultural school
5.	Mishor Adoumim	Industrial zone and community colony
6.	Mishor Adoumim B	Industrial zone and community colony
7.	Neveh-Zouf (Nebi Sallah)	Community colony
8.	Umm Tzafeh (Neveh-Zouf B)	Community colony
9.	Nahal Reihan (Mei-Ami B)	Military position
10.	Sla'it	Military position
11.	Sanour	Community colony
12.	Ofra	Community colony
13.	Karnei Shomron B	Community colony
14.	Shomron (Sebastia)	Community colony
15.	Rimonim	Community colony
16.	Kohav HaShahar	Community colony
17.	Shiloh	Community colony
18.	Tapuah	Community colony
19.	Tekoah	Community colony
20.	Elon Shvout	Rural centre
21.	Kfar Etzion	Moshava
22.	Kfar Etzion	Kibbutz
23.	Migdal Oz	Kibbutz
24.	Rosh Tzourim	Kibbutz
25.	Mitzpeh Jéricho	Community colony

B. Urban colonies

1. Efrat
2. Givon
3. Ariel
4. Kiryat Arba
5. Elkana
6. Karnei Shomron
7. Maaleh Adoumim

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